that our farmers must have a stronger safety net.

In addition, disasters over the past 4 years have exhausted many life savings and left no collateral on which to finance anything. Those who say we ought to wait to pass a new farm bill ought to have to walk a mile in those farmers' shoes. They ought to have to be the ones on the farm who work from daylight to dark and from can to can't. They ought to have to be sitting at that kitchen table after supper when the kids are in bed and hear the discussion about having to give up a farm that has been in the family for generations. Then, when the family farm is put up on an auction block and it goes for pennies on the dollar, what do we say to them then? That is something we can't figure out over lunch at the Palm.

We are going to be talking this week about a stimulus package. We have proposals on stimuli coming out of our ears. It is creme de la creme that can be conceived only by those highly paid lobbyists, pushing and pulling, paying and pimping, and promising to get their clients the best breaks and the most generous incentives.

I learned a long time ago that when it comes to how legislation is written—especially here in Washington—it is kind of like that country music song by Freddie Hart about his girlfriend: ''If fingerprints showed up on skin, I wonder whose I would find on you.''

I am afraid both stimulus bills have a lot of questionable fingerprints on them, and we do not need the FBI to figure out whose they are. Their names, addresses, and their interests are in the top contributor list of both parties.

The legislation I am speaking on today also has fingerprints: Fingerprints from callused hands—the hands of the workers who feed us and clothe us, people who, like the family dog, we just take for granted.

Do I speak too harshly? I am sorry, but because I am not blind to what I see, I cannot be bland in what I say. Of course, we cannot continue to do things as we have always done, and we cannot continue to provide disaster assistance each and every year. But there has to be a transition, some ''weaning time,'' as it is called down on the farm.

Mr. President, this farm bill sets a new policy, a sea change in conservation and peanuts. It addresses the critical needs facing America's farmers. It was written by Senators from both sides of the aisle. I hope that same bipartisan support will pass a new farm policy this year.

UNANIMOUS CONSENT AGREEMENT

Mr. DASCHLE. Mr. President, I have been discussing the schedule for the remainder of the day with the distinguished Republican leader. I want to propound a request. It is my understanding that there is an agreement with our colleagues, having consulted with the Republican leader.

I ask unanimous consent that at 2:30 today the Senate proceed to Calendar No. 223, H.R. 3090, the economic recovery/stimulus legislation for debate only until 5 p.m., with no amendments in order during this period; that this time be equally divided and controlled between the chairman and ranking member of the Finance Committee or their designees.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DASCHLE. I yield the floor.

ECONOMIC RECOVERY AND ASSISTANCE FOR AMERICAN WORKERS ACT OF 2001

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 3090) to provide tax incentives for economic recovery.

The Senate proceeded to consider the bill which had been reported from the Committee on Finance, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE; ETC.

(a) SHORT TITLE.—This Act may be cited as the ''Economic Recovery and Assistance for American Workers Act of 2001''.

(b) REFERENCES TO INTERNAL REVENUE CODE OF 1986.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—

TITLE I—SUPPLEMENTAL REBATE FOR INDIVIDUAL TAXPAYERS

SEC. 101. SUPPLEMENTAL REBATE.

(a) IN GENERAL.—Section 6428 (relating to acceleration of 10 percent income tax rate bracket benefit for 2001) is amended by adding at the end the following new subsection:

''(f) SUPPLEMENTAL REBATE.—

''(1) IN GENERAL.—Each individual who was an eligible individual for such individual's first taxable year beginning in 2000 and who, before October 16, 2001—

''(A) filed a return of tax imposed by subtitle A for such taxable year, or

''(B) filed a return of income tax with the government of American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, or the Virgin Islands of the United States,

shall be treated as having made a payment against the tax imposed by chapter 1 for such first taxable year in an amount equal to the supplemental refund amount for such taxable year.

''(2) SUPPLEMENTAL REFUND AMOUNT.—For purposes of this subsection, the supplemental refund amount is an amount equal to the excess (if any) of—

''(A)(i) $600 in the case of taxpayers to whom section 1(a) applies,

''(ii) $500 in the case of taxpayers to whom section 1(b) applies, and

''(iii) $300 in the case of taxpayers to whom subsections (c) or (d) of section 1 applies, over

''(B) the amount of any advance refund amount paid to the taxpayer under subsection (e).

''(3) TIMING OF PAYMENTS.—In the case of any overpayment attributable to this subsection, the Secretary shall, subject to the provisions of this title, refund or credit such overpayment as rapidly as possible.

''(4) NO INTEREST.—No interest shall be allowed on any overpayment attributable to this subsection.

''(5) SPECIAL RULE FOR CERTAIN NONRESIDENTS.—The determination under subsection (c)(2) as to whether an individual who filed a return of tax described in paragraph (1)(B) is a nonresident alien individual shall, under rules prescribed by the Secretary, be made by reference to the possession or Commonwealth with which the return was filed and not the United States.''.

(b) TECHNICAL CORRECTION.—

(1) IN GENERAL.—Subsection (b) of section 6428 is amended to read as follows:

''(b) CREDIT TREATED AS NONREFUNDABLE PERSONAL CREDIT.—For purposes of this title, the credit allowed under this section shall be treated as a credit allowable under subpart A of part IV of subchapter A of chapter 1.''.

(2) CONFORMING AMENDMENTS.—

(A) Subsection (d) of section 6428 is amended to read as follows:

''(d) COORDINATION WITH ADVANCE REFUNDS OF CREDIT.—

''(1) IN GENERAL.—The amount of credit which would (but for this paragraph) be allowable under this section shall be reduced (but not below zero) by the aggregate refunds and credits made or allowed to the taxpayer under subsection (e). Any failure to so reduce the credit shall be treated as arising out of a mathematical or clerical error and assessed according to section 6213(b)(1).

''(2) JOINT RETURNS.—In the case of a refund or credit made or allowed under subsection (e) with respect to a joint return, half of such refund or credit shall be treated as having been made or allowed to each individual filing such return.''.

(B) Paragraph (2) of section 6428(e) is amended to read as follows:

''(2) ADVANCE REFUND AMOUNT.—For purposes of paragraph (1), the advance refund amount is the amount that would have been allowed as a credit under this section for such first taxable year if—

''(A) this section (other than subsections (b) and (d) and this subsection) had applied to such taxable year, and

''(B) the credit for such taxable year were not allowed to exceed the excess (if any) of—

''(i) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(ii) the sum of the credits allowable under part IV of subchapter A of chapter 1 (other than the credits allowable under subpart C thereof, relating to refundable credits).''.

(c) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 6428(d), as amended by subsection (b), is amended by striking ''subsection (e)'' and inserting ''subsections (e) and (f)''.

(2) Paragraph (2) of section 6428(d), as amended by subsection (b), is amended by striking ''subsection (e)'' and inserting ''subsection (e) or (f)''.

(3) Paragraph (3) of section 6428(e) is amended by striking ''December 31, 2001'' and inserting ''the date of the enactment of the Economic Recovery and Assistance for American Workers Act of 2001''.

(d) REPORTING REQUIREMENT.—For purposes of determining the individuals who are eligible for the supplemental rebate under section 6428(f) of the Internal Revenue Code of 1986, the governments of American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, and the Virgin Islands of the United States shall provide, at such time and in such manner as provided by the Secretary of the Treasury, the names, addresses, and taxpayer identifying numbers (within the meaning of section 6109 of the Internal Revenue Code of 1986) of residents who filed returns of income tax with such governments for 2000.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) TECHNICALS.—The amendments made by subsection (b) shall take effect as if included in the amendment made by section 101(b)(1) of the Economic Growth and Tax Relief Reconciliation Act of 2001.

TITLE II—TEMPORARY BUSINESS RELIEF PROVISIONS

SEC. 201. SPECIAL DEPRECIATION ALLOWANCE FOR CERTAIN PROPERTY.

(a) IN GENERAL.—Section 168 (relating to accelerated cost recovery system) is amended by adding at the end the following new subsection:

''(k) SPECIAL ALLOWANCE FOR CERTAIN PROPERTY ACQUIRED AFTER SEPTEMBER 10, 2001, AND BEFORE SEPTEMBER 11, 2002.—

''(1) ADDITIONAL ALLOWANCE.—In the case of any qualified property—

''(A) the depreciation deduction provided by section 167(a) for the taxable year in which such property is placed in service shall include an allowance equal to 10 percent of the adjusted basis of the qualified property, and

''(B) the adjusted basis of the qualified property shall be reduced by the amount of such deduction before computing the amount otherwise allowable as a depreciation deduction under this chapter for such taxable year and any subsequent taxable year.

''(2) QUALIFIED PROPERTY.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'qualified property' means property—

''(i)(I) to which this section applies which has an applicable recovery period of 20 years or less or which is water utility property,

''(II) which is computer software (as defined in section 167(f)(1)(B)) for which a deduction is allowable under section 167(a) without regard to this subsection,

''(III) which is qualified leasehold improvement property, or

''(IV) which is eligible for depreciation under section 167(g),

''(ii) the original use of which commences with the taxpayer after September 10, 2001,

''(iii) which is—

''(I) acquired by the taxpayer after September 10, 2001, and before September 11, 2002, but only if no written binding contract for the acquisition was in effect before September 11, 2001, or

''(II) acquired by the taxpayer pursuant to a written binding contract which was entered into after September 10, 2001, and before September 11, 2002, and

''(iv) which is placed in service by the taxpayer before January 1, 2003.

''(B) EXCEPTIONS.—

''(i) ALTERNATIVE DEPRECIATION PROPERTY.—The term 'qualified property' shall not include any property to which the alternative depreciation system under subsection (g) applies, determined—

''(I) without regard to paragraph (7) of subsection (g) (relating to election to have system apply), and

''(II) after application of section 280F(b) (relating to listed property with limited business use).

''(ii) ELECTION OUT.—If a taxpayer makes an election under this clause with respect to any class of property for any taxable year, this subsection shall not apply to all property in such class placed in service during such taxable year.

''(C) SPECIAL RULES.—

''(i) SELF-CONSTRUCTED PROPERTY.—In the case of a taxpayer manufacturing, constructing, or producing property for the taxpayer's own use, the requirements of clause (iii) of subparagraph (A) shall be treated as met if the taxpayer begins manufacturing, constructing, or producing the property after September 10, 2001, and before September 11, 2002.

''(ii) SALE-LEASEBACKS.—For purposes of subparagraph (A)(ii), if property—

''(I) is originally placed in service after September 10, 2001, by a person, and

''(II) sold and leased back by such person within 3 months after the date such property was originally placed in service,

such property shall be treated as originally placed in service not earlier than the date on which such property is used under the leaseback referred to in subclause (II).

''(D) COORDINATION WITH SECTION 280F.—For purposes of section 280F—

''(i) AUTOMOBILES.—In the case of a passenger automobile (as defined in section 280F(d)(5)) which is qualified property, the Secretary shall increase the limitation under section 280F(a)(1)(A)(i) by $1,600.

''(ii) LISTED PROPERTY.—The deduction allowable under paragraph (1) shall be taken into account in computing any recapture amount under section 280F(b)(2).

''(3) QUALIFIED LEASEHOLD IMPROVEMENT PROPERTY.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'qualified leasehold improvement property' means any improvement to an interior portion of a building which is nonresidential real property if—

''(i) such improvement is made under or pursuant to a lease (as defined in subsection (h)(7))—

''(I) by the lessee (or any sublessee) of such portion, or

''(II) by the lessor of such portion,

''(ii) such portion is to be occupied exclusively by the lessee (or any sublessee) of such portion, and

''(iii) such improvement is placed in service more than 3 years after the date the building was first placed in service.

''(B) CERTAIN IMPROVEMENTS NOT INCLUDED.—Such term shall not include any improvement for which the expenditure is attributable to—

''(i) the enlargement of the building,

''(ii) any elevator or escalator,

''(iii) any structural component benefiting a common area, and

''(iv) the internal structural framework of the building.

''(C) DEFINITIONS AND SPECIAL RULES.—For purposes of this paragraph—

''(i) BINDING COMMITMENT TO LEASE TREATED AS LEASE.—A binding commitment to enter into a lease shall be treated as a lease, and the parties to such commitment shall be treated as lessor and lessee, respectively.

''(ii) RELATED PERSONS.—A lease between related persons shall not be considered a lease. For purposes of the preceding sentence, the term 'related persons' means—

''(I) members of an affiliated group (as defined in section 1504), and

''(II) persons having a relationship described in subsection (b) of section 267; except that, for purposes of this clause, the phrase '80 percent or more' shall be substituted for the phrase 'more than 50 percent' each place it appears in such subsection.

''(D) IMPROVEMENTS MADE BY LESSOR.—In the case of an improvement made by the person who was the lessor of such improvement when such improvement was placed in service, such improvement shall be qualified leasehold improvement property (if at all) only so long as such improvement is held by such person.''.

(b) ALLOWANCE AGAINST ALTERNATIVE MINIMUM TAX.—

(1) IN GENERAL.—Section 56(a)(1)(A) (relating to depreciation adjustment for alternative minimum tax) is amended by adding at the end the following new clause:

''(iii) ADDITIONAL ALLOWANCE FOR CERTAIN PROPERTY ACQUIRED AFTER SEPTEMBER 10, 2001, AND BEFORE SEPTEMBER 11, 2002.—The deduction under section 168(k) shall be allowed.''.

(2) CONFORMING AMENDMENT.—Clause (i) of section 56(a)(1)(A) is amended by striking ''clause (ii)'' both places it appears and inserting ''clauses (ii) and (iii)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after September 10, 2001, in taxable years ending after such date.

SEC. 202. INCREASE IN SECTION 179 EXPENSING.

(a) IN GENERAL.—The table contained in section 179(b)(1) (relating to dollar limitation) is amended to read as follows:

"If the taxable year begins in:	The applicable amount is:
2001	$24,000
2002	$35,000
2003 or thereafter	$25,000.''.

(b) TEMPORARY INCREASE IN AMOUNT OF PROPERTY TRIGGERING PHASEOUT OF MAXIMUM BENEFIT.—Paragraph (2) of section 179(b) is amended by inserting before the period ''($325,000 in the case of taxable years beginning during 2002)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2000.

SEC. 203. CARRYBACK OF CERTAIN NET OPERATING LOSSES ALLOWED FOR 5 YEARS.

(a) IN GENERAL.—Paragraph (1) of section 172(b) (relating to years to which loss may be carried) is amended by adding at the end the following new subparagraph:

''(H) In the case of a taxpayer which has a net operating loss for any taxable year ending in 2001, subparagraph (A)(i) shall be applied by substituting '5' for '2' and subparagraph (F) shall not apply.''.

(b) ELECTION TO DISREGARD 5-YEAR CARRYBACK.—Section 172 (relating to net operating loss deduction) is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

''(j) ELECTION TO DISREGARD 5-YEAR CARRYBACK FOR CERTAIN NET OPERATING LOSSES.—Any taxpayer entitled to a 5-year carryback under subsection (b)(1)(H) from any loss year may elect to have the carryback period with respect to such loss year determined without regard to subsection (b)(1)(H). Such election shall be made in such manner as may be prescribed by the Secretary and shall be made by the due date (including extensions of time) for filing the taxpayer's return for the taxable year of the net operating loss. Such election, once made for any taxable year, shall be irrevocable for such taxable year.''.

(c) TEMPORARY SUSPENSION OF 90 PERCENT LIMIT ON CERTAIN NOL CARRYBACKS.—Subparagraph (A) of section 56(d)(1) (relating to general rule defining alternative tax net operating loss deduction) is amended to read as follows:

''(A) the amount of such deduction shall not exceed the sum of—

''(i) the lesser of—

''(I) the amount of such deduction attributable to net operating losses (other than the deduction attributable to carrybacks described in clause (ii)(I)), or

''(II) 90 percent of alternative minimum taxable income determined without regard to such deduction, plus

''(ii) the lesser of—

''(I) the amount of such deduction attributable to carrybacks of net operating losses for taxable years ending in 2001, or

''(II) alternative minimum taxable income determined without regard to such deduction reduced by the amount determined under clause (i), and''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to net operating losses for taxable years ending in 2001.

TITLE III—TAX INCENTIVES AND RELIEF FOR VICTIMS OF TERRORISM, DISASTERS, AND DISTRESSED CONDITIONS

Subtitle A—Tax Incentives for New York City and Distressed Areas

SEC. 301. EXPANSION OF WORK OPPORTUNITY TAX CREDIT TARGETED CATEGORIES TO INCLUDE CERTAIN EMPLOYEES IN NEW YORK CITY.

(a) IN GENERAL.—For purposes of section 51 of the Internal Revenue Code of 1986 (relating to work opportunity credit), a New York Recovery Zone business employee shall be treated as a member of a targeted group.

(b) NEW YORK RECOVERY ZONE BUSINESS EMPLOYEE.—For purposes of this section—

(1) IN GENERAL.—The term ''New York Recovery Zone business employee'' means, with respect to the period beginning after September 10, 2001, and ending before January 1, 2003, any employee of a New York Recovery Zone business if—

(A) substantially all the services performed during such period by such employee for such business are performed in a trade or business of such business located in an area described in paragraph (2), and

(B) with respect to any employee of such business described in paragraph (2)(B), such employee is certified by the New York State Department of Labor as not exceeding, when added to all other employees previously certified with respect to such period as New York Recovery Zone business employees with respect to such business, the number of employees of such business on September 11, 2001, in the New York Recovery Zone.

(2) NEW YORK RECOVERY ZONE BUSINESS.—The term ''New York Recovery Zone business'' means any business establishment which is—

(A) located in the New York Recovery Zone, or

(B) located in the City of New York, New York, outside the New York Recovery Zone, as the result of the destruction or damage of such establishment by the September 11, 2001, terrorist attack.

(3) NEW YORK RECOVERY ZONE.—The term ''New York Recovery Zone'' means the area located on or south of Canal Street, East Broadway (east of its intersection with Canal Street), or Grand Street (east of its intersection with East Broadway) in the Borough of Manhattan in the City of New York, New York.

(4) SPECIAL RULES FOR DETERMINING AMOUNT OF CREDIT.—For purposes of applying subpart E of part IV of subchapter B of chapter 1 of the Internal Revenue Code of 1986 to wages paid or incurred to any New York Recovery Zone business employee—

(A) section 51(a) of such Code shall be applied by substituting ''qualified wages'' for ''qualified first-year wages'',

(B) section 51(d)(12)(A)(i) of such Code shall be applied to the certification of individuals employed by a New York Recovery Zone business before April 1, 2002, by substituting ''on or before May 1, 2002'' for ''on or before the day on which such individual begins work for the employer'',

(C) subsections (c)(4) and (i)(2) of section 51 of such Code shall not apply, and

(D) in determining qualified wages, the following shall apply in lieu of section 51(b) of such Code:

(i) QUALIFIED WAGES.—The term ''qualified wages'' means the wages paid or incurred by the employer for work performed during the period beginning on September 11, 2001, and ending on December 31, 2002, to individuals who are New York Recovery Zone business employees of such employer.

(ii) ONLY FIRST $12,000 OF WAGES PER TAXABLE YEAR TAKEN INTO ACCOUNT.—The amount of the qualified wages which may be taken into account with respect to any individual shall not exceed $12,000 per taxable year of the employer.

(c) CREDIT ALLOWED AGAINST REGULAR AND MINIMUM TAX.—

(1) IN GENERAL.—Subsection (c) of section 38 (relating to limitation based on amount of tax) is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

''(3) SPECIAL RULES FOR NEW YORK RECOVERY ZONE BUSINESS EMPLOYEE CREDIT.—

''(A) IN GENERAL.—In the case of the New York Recovery Zone business employee credit—

''(i) this section and section 39 shall be applied separately with respect to such credit, and

''(ii) in applying paragraph (1) to such credit—

''(I) the tentative minimum tax shall be treated as being zero, and

''(II) the limitation under paragraph (1) (as modified by subclause (I)) shall be reduced by the credit allowed under subsection (a) for the taxable year (other than the New York Recovery Zone business employee credit).

''(B) NEW YORK RECOVERY ZONE BUSINESS EMPLOYEE CREDIT.—For purposes of this subsection, the term 'New York Recovery Zone business employee credit' means the portion of work opportunity credit under section 51 determined under section 301 of the Economic Recovery and Assistance for American Workers Act of 2001.''.

(2) CONFORMING AMENDMENT.—Subclause (II) of section 38(c)(2)(A)(ii) is amended by inserting ''or the New York Recovery Zone business employee credit'' after ''employment credit''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years ending after September 11, 2001.

(d) COORDINATION WITH EMERGENCY APPROPRIATIONS.—Notwithstanding any other provision of law, any amount otherwise available for disaster recovery activities and assistance related to the September 11, 2001, terrorist attack in the City of New York, New York, under the 2001 Emergency Supplemental Appropriations Act for Recovery from and Response to Terrorist Attacks on the United States (Public Law 107–38) shall be reduced by the aggregate 10-year cost to the United States Treasury resulting from the credits allowed under this section, as estimated for purposes of determining whether this Act complies with the Congressional Budget Act of 1974.

SEC. 302. TAX-EXEMPT PRIVATE ACTIVITY BONDS FOR REBUILDING PORTION OF NEW YORK CITY DAMAGED IN THE SEPTEMBER 11, 2001, TERRORIST ATTACK.

(a) TREATMENT AS QUALIFIED BONDS.—For purposes of the Internal Revenue Code of 1986, any qualified NYC recovery bond shall be treated as an exempt facility bond under section 141(e) of such Code.

(b) QUALIFIED NYC RECOVERY BOND.—For purposes of this section, the term ''qualified NYC recovery bond'' means any bond which—

(1) is issued by the State of New York or any political subdivision thereof (or any agency, instrumentality or constituted authority on behalf thereof), and

(2) meets the requirements of subsections (c) through (f).

(c) DESIGNATION REQUIREMENTS.—A bond meets the requirements of this subsection if it is issued as part of an issue designated as a qualified NYC recovery bond by the Mayor of the City of New York, New York, or an individual specifically appointed to make such designation.

(d) ISSUANCE AND VOLUME REQUIREMENTS.—

(1) IN GENERAL.—Except as provided in paragraph (3), a bond issued as part of an issue meets the requirements of this subsection if such bond is issued during 2002 (or during the period elected under paragraph (2)) and the aggregate face amount of the bonds issued pursuant to such issue, when added to the aggregate face amount of qualified NYC recovery bonds previously issued, does not exceed $15,000,000,000.

(2) ELECTIVE CARRYFORWARD OF UNUSED LIMITATION.—If the volume cap under paragraph (1) exceeds the aggregate amount of qualified NYC recovery bonds issued during 2002, the issuing authority under subsection (b) may elect to carry forward such excess volume cap for an additional 3-year period under rules similar to the rules of section 146(f) of the Internal Revenue Code of 1986 (other than paragraph (2) thereof).

(3) CERTAIN CURRENT REFUNDINGS NOT COUNTED.—For purposes of paragraph (1), there shall not be taken into account any current refunding bond the proceeds of which are used to refund any bond described in paragraph (1) to the extent the face amount of such current refunding bond does not exceed the outstanding face amount of the refunded bond.

(e) QUALIFIED PROJECT REQUIREMENTS.—

(1) IN GENERAL.—A bond meets the requirements of this subsection if it is issued as part of an issue at least 95 percent of the net proceeds of which are to be used for qualified project costs.

(2) QUALIFIED PROJECT COSTS.—For purposes of this subsection—

(A) IN GENERAL.—The term ''qualified project costs'' means—

(i) with respect to a qualified project described in paragraph (3)(A)(i), the costs of acquisition, construction, reconstruction, and renovation of commercial real property and residential rental real property, including—

(I) buildings and their structural components,

(II) fixed tenant improvements, and

(III) public utility property, and

(ii) with respect to a qualified project described in paragraph (3)(A)(ii), the costs of acquisition, construction, reconstruction, and renovation of commercial real property, including—

(I) buildings and their structural components, and

(II) fixed tenant improvements.

(B) LIMITATIONS.—

(i) RESIDENTIAL RENTAL REAL PROPERTY.—Such term shall not include costs with respect to residential rental real property to the extent such costs for all such property exceed 20 percent of the aggregate face amount of the bonds issued under this section.

(ii) RETAIL SALES PROPERTY.—Such term shall not include costs with respect to property used for retail sales of tangible property and functionally related and subordinate property to the extent such costs for all such property exceeds 10 percent of the aggregate face amount of the bonds issued under this section.

(iii) MOVABLE FIXTURES AND EQUIPMENT.—Such term shall not include costs with respect to movable fixtures and equipment.

(3) QUALIFIED PROJECTS.—For purposes of this subsection—

(A) IN GENERAL.—The term ''qualified project'' means any project—

(i) located within the New York Recovery Zone, or

(ii) located within the City of New York, New York, but outside of the New York Recovery Zone, but only if—

(I) such project consists of at least 100,000 square feet of usable office or other commercial space located in a single building or multiple adjacent buildings, and

(II) the aggregate face amount of the bonds issued to finance such project, when added to the aggregate face amount of all bonds issued to finance all other projects described in this clause, does not exceed $7,000,000,000.

(B) NEW YORK RECOVERY ZONE.—The term ''New York Recovery Zone'' means the area located on or south of Canal Street, East Broadway (east of its intersection with Canal Street), or Grand Street (east of its intersection with East Broadway) in the Borough of Manhattan in the City of New York, New York.

(f) GENERAL REQUIREMENTS.—A bond meets the requirements of this subsection if it is issued as part of an issue which meets the requirements of part IV of subchapter B of chapter 1 of the Internal Revenue Code of 1986 applicable to an exempt facility bond, except as follows:

(1) Sections 142(d) and 150(b)(2) (relating to qualified residential rental project), and section 146 (relating to volume cap) of such Code shall not apply to bonds issued under this section.

(2) The application of section 147(c) of such Code (relating to limitation on use for land acquisition) shall be determined by reference to the aggregate authorized face amount of all bonds issued under this section rather than the net proceeds of each issue.

(3) Section 147(d) of such Code (relating to acquisition of existing property not permitted) shall be applied by substituting ''50 percent'' for ''15 percent'' each place it appears.

(4) Section 148(f)(4)(C) of such Code (relating to exception from rebate for certain proceeds to be used to finance construction expenditures) shall apply to construction proceeds of bonds issued under this section.

(5) Rules similar to the rules of section 143(a)(2)(A)(iv) of such Code (relating to use of loan repayments) shall apply to bonds issued under this section.

(g) BOND INTEREST NOT AN AMT PREFERENCE ITEM.—For purposes of section 57(a)(5) of the Internal Revenue Code of 1986, a qualified NYC recovery bond shall not be treated as a specified private activity bond.

(h) SEPARATE ISSUE TREATMENT OF PORTIONS OF AN ISSUE.—This section shall not apply to the portion of the proceeds of an issue which (if issued as a separate issue) would be treated as a qualified bond or as a bond that is not a private activity bond (determined without regard to subsection (a)), if the issuer elects to so treat such portion.

(i) NET PROCEEDS.—For purposes of this section, the term ''net proceeds'' has the meaning given such term by section 150(a)(3) of the Internal Revenue Code of 1986.

(j) INTEREST ON DEBT USED TO PURCHASE OR CARRY QUALIFIED NYC RECOVERY BONDS.—

(1) IN GENERAL.—Section 265(b)(3) (relating to exception for certain tax-exempt obligations) is amended—

(A) by inserting ''a tax-exempt obligation issued pursuant to section 302 of the Economic Recovery and Assistance for American Workers Act of 2001 or'' after ''means'' in subparagraph (B)(i),

(B) by inserting ''other than an obligation issued pursuant to section 302 of the Economic Recovery and Assistance for American Workers Act of 2001'' after ''of a qualified tax-exempt obligation'' in subparagraph (D)(ii), and

(C) by adding at the end of subparagraph (D) the following new clause:

''(iv) REFUNDINGS OF CERTAIN OBLIGATIONS.—In the case of a refunding (or a series of refundings) of a qualified tax-exempt obligation that is an obligation issued pursuant to section 302 of the Economic Recovery and Assistance for

American Workers Act of 2001, the refunding obligation shall be treated as a qualified tax-exempt obligation if the refunding obligation meets the requirements of such section.''.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years ending on or after the date of the enactment of this Act.

(k) COORDINATION WITH EMERGENCY APPROPRIATIONS.—Notwithstanding any other provision of law, any amount otherwise available for disaster recovery activities and assistance related to the September 11, 2001, terrorist attack in the City of New York, New York, under the 2001 Emergency Supplemental Appropriations Act for Recovery from and Response to Terrorist Attacks on the United States (Public Law 107–38) shall be reduced by the aggregate 10-year cost to the United States Treasury of the qualified NYC recovery bonds issued under this section, as estimated for purposes of determining whether this Act complies with the Congressional Budget Act of 1974.

SEC. 303. GAIN OR LOSS FROM PROPERTY DAMAGED OR DESTROYED IN NEW YORK RECOVERY ZONE.

(a) GENERAL RULE.—For purposes of the Internal Revenue Code of 1986, if a taxpayer elects the application of this section with respect to any eligible property, then any gain or loss on the disposition of the property shall be determined without regard to any compensation (by insurance or otherwise) received by the taxpayer for damages sustained to the property as a result of the terrorist attacks occurring on September 11, 2001. Such election shall be made at such time and in such manner as the Secretary of the Treasury may prescribe, and, once made, is irrevocable.

(b) LIMITATION BASED ON PURCHASE OF REPLACEMENT PROPERTY.—

(1) IN GENERAL.—Subsection (a) shall apply to compensation received with respect to eligible property only to the extent of the cost of any qualified replacement property purchased by the taxpayer.

(2) ALLOCATION.—If the aggregate compensation received by a taxpayer with respect to all eligible property exceeds the aggregate cost of all qualified replacement property purchased by the taxpayer, such cost shall be allocated to such eligible property in accordance with rules prescribed by the Secretary.

(3) SPECIAL RULE FOR CONSOLIDATED GROUPS.—For purposes of paragraph (1), an affiliated group filing a consolidated return may elect to treat any qualified replacement property purchased by a member of the group as purchased by another member of the group.

(c) ELIGIBLE PROPERTY.—For purposes of this section, the term ''eligible property'' means any tangible property—

(1) which is section 1245 property (as defined in section 1245(a)(3) of the Internal Revenue Code of 1986) or qualified leasehold improvement property (as defined in section 168(k)(3) of such Code),

(2) substantially all of the use of which as of September 11, 2001, was in a business establishment of the taxpayer located in the New York Recovery Zone, and

(3) which was damaged or destroyed in the terrorist attacks of September 11, 2001.

(d) QUALIFIED REPLACEMENT PROPERTY.—For purposes of this section—

(1) IN GENERAL.—The term ''qualified replacement property'' means tangible property—

(A) which is described in subsection (c)(1),

(B) which is purchased by the taxpayer on or after September 11, 2001, and placed in service in the City of New York, New York, before January 1, 2007,

(C) the original use of which in such city begins with the taxpayer, and

(D) substantially all of the use of which is reasonably expected to be in connection with a business establishment of the taxpayer located in such city.

(2) RECAPTURE.—The Secretary shall, by regulations, provide for the recapture of any Federal tax benefit provided by this section in cases where a taxpayer ceases to use property as qualified replacement property and such recapture is necessary to prevent the avoidance of the purposes of this section.

(e) COORDINATION WITH OTHER PROVISIONS OF CODE.—For purposes of the Internal Revenue Code of 1986—

(1) SPECIAL RULE FOR TREATMENT OF UNRECOGNIZED GAIN IN ELIGIBLE PROPERTY.—Sections 1245 and 1250 of such Code shall not apply to any gain on the disposition of eligible property not recognized by reason of this section.

(2) LOSS ELECTION NOT TO APPLY TO ELIGIBLE PROPERTY.—If a taxpayer elects the application of this section with respect to any eligible property, the taxpayer may not make an election under section 165(i) of such Code with respect to any loss attributable to the property.

(3) BASIS ADJUSTMENTS OF QUALIFIED REPLACEMENT PROPERTY.—

(A) IN GENERAL.—The basis of any qualified replacement property shall be reduced by the amount of any compensation disregarded by reason of subsection (a).

(B) SPECIAL RULES FOR RECAPTURE.—For purposes of sections 1245 and 1250 of such Code, any reduction under subparagraph (A) shall be treated as a deduction allowed for depreciation, except that for purposes of section 1250(b) of such Code, the determination of what would have been the depreciation adjustments under the straight line method shall be made as if there had been no reduction under subparagraph (A).

(4) SPECIAL RULES FOR APPLYING SECTION 1033.—For purposes of applying section 1033 of such Code to converted property which is eligible property with respect to which an election under subsection (a) has been made—

(A) the amount realized from the eligible property shall not include any compensation received by the taxpayer which is disregarded by reason of subsection (a), and

(B) any qualified replacement property shall be disregarded in determining whether property was acquired for the purposes of replacing the converted property.

(f) OTHER DEFINITIONS AND RULES.—For purposes of this section—

(1) NEW YORK RECOVERY ZONE.—The term ''New York Recovery Zone'' means the area located on or south of Canal Street, East Broadway (east of its intersection with Canal Street), or Grand Street (east of its intersection with East Broadway) in the Borough of Manhattan in the City of New York, New York.

(2) TIME FOR ASSESSMENT.—Rules similar to the rules of subparagraphs (C) and (D) of section 1033(a)(2) of such Code shall apply for purposes of this section.

(3) RELATED PARTY LIMITATION.—Section 1033(i) of such Code shall apply for purposes of this section.

(g) COORDINATION WITH EMERGENCY APPROPRIATIONS.—Notwithstanding any other provision of law, any amount otherwise available for disaster recovery activities and assistance related to the September 11, 2001, terrorist attack in the City of New York, New York, under the 2001 Emergency Supplemental Appropriations Act for Recovery from and Response to Terrorist Attacks on the United States (Public Law 107–38) shall be reduced by the aggregate 10-year cost to the United States Treasury resulting from the enactment of this section, as estimated for purposes of determining whether this Act complies with the Congressional Budget Act of 1974.

SEC. 304. REENACTMENT OF EXCEPTIONS FOR QUALIFIED-MORTGAGE-BOND-FINANCED LOANS TO VICTIMS OF PRESIDENTIALLY DECLARED DISASTERS.

Section 143(k)(11) (relating to special rules for residences located in disaster areas) is amended—

(1) by inserting ''damaged or destroyed by a disaster and'' after ''In the case of a residence'',

(2) by inserting after subparagraph (B) the following new subparagraph:

''(C) Paragraph (4) of this subsection shall be applied by substituting '$25,000' for '$15,000'.'', and

(3) by inserting '', and after December 31, 2001, and before January 1, 2003'' after ''1999'' in the last sentence.

SEC. 305. ONE-YEAR EXPANSION OF AUTHORITY FOR INDIAN TRIBES TO ISSUE TAX-EXEMPT PRIVATE ACTIVITY BONDS.

(a) IN GENERAL.—Section 7871(c) (relating to additional requirements for tax-exempt bonds) is amended by adding at the end the following new paragraph:

''(4) EXCEPTION FOR QUALIFIED INDIAN PRIVATE ACTIVITY BONDS.—

''(A) IN GENERAL.—In the case of any qualified Indian private activity bond—

''(i) paragraph (2) shall not apply,

''(ii) such bond shall be treated as a qualified bond under section 141(e), and

''(iii) section 146 shall not apply.

''(B) QUALIFIED INDIAN PRIVATE ACTIVITY BOND.—For purposes of this paragraph, the term 'qualified Indian private activity bond' means any bond which—

''(i) is issued by a qualified Indian tribal government—

''(I) as part of an issue 95 percent or more of the net proceeds of which are to be used to provide qualified residential rental projects (as determined under section 142(d), by substituting 'statewide median gross income' for 'area median gross income'),

''(II) as part of a qualified mortgage issue (as defined in section 143(a)(2)),

''(III) as part of an issue 95 percent or more of the net proceeds of which are to be used to provide any facility described in section 1394(b)(1) for any business (whether tribally owned or not) that would qualify as an enterprise zone business if the Indian reservation (as defined in section 168(j)(6)) over which the qualified Indian tribal government exercises general governmental authority were treated as an empowerment zone, or

''(IV) as part of an issue to be used for more than 1 of the purposes described in the preceding subclauses, and

''(ii) meets the requirements of subparagraphs (D) and (E).

''(C) QUALIFIED INDIAN TRIBAL GOVERNMENT.—For purposes of this paragraph, the term 'qualified Indian tribal government' means an Indian tribal government which exercises general governmental authority over an Indian reservation (as so defined) with an unemployment rate among members of the tribe of at least 25 percent. For purposes of the preceding sentence, determinations of unemployment shall be made with respect to any issuance of a bond under this section on the basis of the most recent report published by the Bureau of Indian Affairs under section 17(a) of the Indian Employment, Training and Related Services Demonstration Act of 1992 (25 U.S.C. 3416(a)) before such issuance.

''(D) DESIGNATION REQUIREMENTS.—A bond meets the requirements of this subparagraph if it is issued as part of an issue designated as a qualified Indian private activity bond for a purpose described in subclause (I), (II), or (III) of subparagraph (B)(i) by the qualified Indian tribal government.

''(E) VOLUME REQUIREMENTS.—

''(i) IN GENERAL.—A bond issued as part of an issue meets the requirements of this subparagraph if such bond is issued during 2002 (or during the period elected under clause (ii)) and the aggregate face amount of the bonds issued pursuant to such issue, when added to the aggregate face amount of qualified Indian private activity bonds previously issued by such qualified Indian tribal government, does not exceed $10,000,000.

''(ii) ELECTIVE CARRYFORWARD OF UNUSED LIMITATION.—If the volume cap under clause (i) exceeds the aggregate amount of qualified Indian private activity bonds issued during 2002, the qualified Indian tribal government may elect to carry forward such excess volume cap for an additional 3-year period under rules similar to the rules of section 146(f) (other than paragraph (2) thereof).

''(F) APPLICATION OF SECTION 42 TO RESIDENTIAL RENTAL PROJECTS FINANCED BY BONDS UNDER THIS PARAGRAPH.—In the case of bonds described in subparagraph (B)(i)(I), issuance under the requirements of subparagraph (E) shall be treated as issuance under the requirements of section 146 for purposes of determining the application of section 42 to projects financed by the net proceeds of such bonds.

''(G) SPECIAL RULE FOR DETERMINING ENTERPRISE ZONE BUSINESS.—For purposes of subparagraph (B)(i)(III), an enterprise zone business shall not include any facility a principal business of which is the sale of tobacco products or highway motor fuels, unless the qualified Indian tribal government has entered into an agreement with the State in which such facility is located to collect applicable State taxes on such products or fuels.

''(H) BOND INTEREST NOT AN AMT PREFERENCE ITEM.—For purposes of section 57(a)(5), a bond designated under subparagraph (D) as a qualified Indian private activity bond shall not be treated as a specified private activity bond.

''(I) REPORT.—The Secretary shall compile necessary data from reports required under section 149(e) relating to the issuance of bonds under this paragraph and shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate not later than September 30 of any year following the calendar year in which Indian tribal governments issued bonds under this paragraph and the activities for which such bonds were issued.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 7871(c)(2) is amended by striking ''paragraph (3)'' and inserting ''paragraphs (3) and (4)''.

(2) Section 7871 is amended—

(A) by striking clause (iii) of subsection (c)(3)(E), and

(B) by adding at the end the following new subsection:

''(f) NET PROCEEDS.—For purposes of this section, the term 'net proceeds' has the meaning given such term by section 150(a)(3).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after December 31, 2001.

Subtitle B—Victims of Terrorism Tax Relief

SEC. 310. SHORT TITLE.

This subtitle may be cited as the ''Victims of Terrorism Tax Relief Act of 2001''.

PART I—RELIEF PROVISIONS FOR VICTIMS OF APRIL 19, 1995, AND SEPTEMBER 11, 2001, TERRORIST ATTACKS

SEC. 311. INCOME AND EMPLOYMENT TAXES OF VICTIMS OF TERRORIST ATTACKS.

(a) IN GENERAL.—Section 692 (relating to income taxes of members of Armed Forces on death) is amended by adding at the end the following new subsection:

''(d) CERTAIN INDIVIDUALS DYING AS A RESULT OF APRIL 19, 1995, AND SEPTEMBER 11, 2001, TERRORIST ATTACKS.—

''(1) IN GENERAL.—In the case of any individual who dies as a result of wounds or injury incurred as a result of the terrorist attacks against the United States on April 19, 1995, or September 11, 2001, any tax imposed by this subtitle shall not apply—

''(A) with respect to the taxable year in which falls the date of such individual's death, and

''(B) with respect to any prior taxable year in the period beginning with the last taxable year ending before the taxable year in which the wounds or injury were incurred.

''(2) EXCEPTIONS.—

''(A) TAXATION OF CERTAIN BENEFITS.—Subject to such rules as the Secretary may prescribe, paragraph (1) shall not apply to the amount of any tax imposed by this subtitle which would be computed by only taking into account the items of income, gain, or other amounts attributable to—

''(i) amounts payable in the taxable year by reason of the death of an individual described in paragraph (1) which would have been payable in such taxable year if the death had occurred by reason of an event other than the terrorist attacks against the United States on April 19, 1995, or September 11, 2001, or

''(ii) amounts payable in the taxable year which would not have been payable in such taxable year but for an action taken after April 19, 1995, or after September 11, 2001 (as the case may be).

''(B) NO RELIEF FOR PERPETRATORS.—Paragraph (1) shall not apply with respect to any individual identified by the Attorney General to have been a participant or conspirator in any such terrorist attack, or a representative of such individual.''.

(b) REFUND OF OTHER TAXES PAID.—Section 692, as amended by subsection (a), is amended by adding at the end the following new subsection:

''(e) REFUND OF OTHER TAXES PAID.—In determining the amount of tax under this section to be credited or refunded as an overpayment with respect to any individual for any period, such amount shall be increased by an amount equal to the amount of taxes imposed and collected under chapter 21 and sections 3201(a), 3211(a)(1), and 3221(a) with respect to such individual for such period.''.

(c) CONFORMING AMENDMENTS.—

(1) Section 5(b)(1) is amended by inserting ''and victims of certain terrorist attacks'' before ''on death''.

(2) Section 6013(f)(2)(B) is amended by inserting ''and victims of certain terrorist attacks'' before ''on death''.

(d) CLERICAL AMENDMENTS.—

(1) The heading of section 692 is amended to read as follows:

''SEC. 692. INCOME AND EMPLOYMENT TAXES OF MEMBERS OF ARMED FORCES AND VICTIMS OF CERTAIN TERRORIST ATTACKS ON DEATH.''.

(2) The item relating to section 692 in the table of sections for part II of subchapter J of chapter 1 is amended to read as follows:

''Sec. 692. Income and employment taxes of members of Armed Forces and victims of certain terrorist attacks on death.''.

(d) EFFECTIVE DATE; WAIVER OF LIMITATIONS.—

(1) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending before, on, or after September 11, 2001.

(2) WAIVER OF LIMITATIONS.—If refund or credit of any overpayment of tax resulting from the amendments made by this section is prevented at any time before the close of the 1-year period beginning on the date of the enactment of this Act by the operation of any law or rule of law (including res judicata), such refund or credit may nevertheless be made or allowed if claim therefor is filed before the close of such period.

SEC. 312. ESTATE TAX REDUCTION.

(a) IN GENERAL.—Section 2201 is amended to read as follows:

''SEC. 2201. COMBAT ZONE-RELATED DEATHS OF MEMBERS OF THE ARMED FORCES AND DEATHS OF VICTIMS OF CERTAIN TERRORIST ATTACKS.

''(a) IN GENERAL.—Unless the executor elects not to have this section apply, in applying section 2001 to the estate of a qualified decedent, the rate schedule set forth in subsection (c) shall be deemed to be the rate schedule set forth in section 2001(c).

''(b) QUALIFIED DECEDENT.—For purposes of this section, the term 'qualified decedent' means—

''(1) any citizen or resident of the United States dying while in active service of the Armed Forces of the United States, if such decedent—

''(A) was killed in action while serving in a combat zone, as determined under section 112(c), or

''(B) died as a result of wounds, disease, or injury suffered while serving in a combat zone (as determined under section 112(c)), and while in the line of duty, by reason of a hazard to which such decedent was subjected as an incident of such service, or

''(2) any individual who died as a result of wounds or injury incurred as a result of the terrorist attacks against the United States on April 19, 1995, or September 11, 2001.

Paragraph (2) shall not apply with respect to any individual identified by the Attorney General to have been a participant or conspirator in any such terrorist attack, or a representative of such individual.

''(c) RATE SCHEDULE.—

''If the amount with respect to which the tentative tax to be computed is:	The tentative tax is:
Not over $150,000	1 percent of the amount by which such amount exceeds $100,000.
Over $150,000 but not over $200,000.	$500 plus 2 percent of the excess over $150,000.
Over $200,000 but not over $300,000.	$1,500 plus 3 percent of the excess over $200,000.
Over $300,000 but not over $500,000.	$4,500 plus 4 percent of the excess over $300,000.
Over $500,000 but not over $700,000.	$12,500 plus 5 percent of the excess over $500,000.
Over $700,000 but not over $900,000.	$22,500 plus 6 percent of the excess over $700,000.
Over $900,000 but not over $1,100,000.	$34,500 plus 7 percent of the excess over $900,000.
Over $1,100,000 but not over $1,600,000.	$48,500 plus 8 percent of the excess over $1,100,000.
Over $1,600,000 but not over $2,100,000.	$88,500 plus 9 percent of the excess over $1,600,000.
Over $2,100,000 but not over $2,600,000.	$133,500 plus 10 percent of the excess over $2,100,000.
Over $2,600,000 but not over $3,100,000.	$183,500 plus 11 percent of the excess over $2,600,000.
Over $3,100,000 but not over $3,600,000.	$238,500 plus 12 percent of the excess over $3,100,000.
Over $3,600,000 but not over $4,100,000.	$298,500 plus 13 percent of the excess over $3,600,000.
Over $4,100,000 but not over $5,100,000.	$363,500 plus 14 percent of the excess over $4,100,000.
Over $5,100,000 but not over $6,100,000.	$503,500 plus 15 percent of the excess over $5,100,000.
Over $6,100,000 but not over $7,100,000.	$653,500 plus 16 percent of the excess over $6,100,000.

''If the amount with respect to which the tentative tax to be computed is:	The tentative tax is:
Over $7,100,000 but not over $8,100,000.	$813,500 plus 17 percent of the excess over $7,100,000.
Over $8,100,000 but not over $9,100,000.	$983,500 plus 18 percent of the excess over $8,100,000.
Over $9,100,000 but not over $10,100,000.	$1,163,500 plus 19 percent of the excess over $9,100,000.
Over $10,100,000	$1,353,500 plus 20 percent of the excess over $10,100,000.

''(d) DETERMINATION OF UNIFIED CREDIT.—In the case of an estate to which this section applies, subsection (a) shall not apply in determining the credit under section 2010.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 2011 is amended by striking subsection (d) and by redesignating subsections (e), (f), and (g) as subsections (d), (e), and (f), respectively.

(2) Section 2053(d)(3)(B) is amended by striking ''section 2011(e)'' and inserting ''section 2011(d)''.

(3) Paragraph (9) of section 532(c) of the Economic Growth and Tax Relief Reconciliation Act of 2001 is repealed.

(c) CLERICAL AMENDMENT.—The item relating to section 2201 in the table of sections for subchapter C of chapter 11 is amended to read as follows:

''Sec. 2201. Combat zone-related deaths of members of the Armed Forces and deaths of victims of certain terrorist attacks.''.

(d) EFFECTIVE DATE; WAIVER OF LIMITATIONS.—

(1) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents—

(A) dying on or after September 11, 2001, and

(B) in the case of individuals dying as a result of the April 19, 1995, terrorist attack, dying on or after April 19, 1995.

(2) WAIVER OF LIMITATIONS.—If refund or credit of any overpayment of tax resulting from the amendments made by this section is prevented at any time before the close of the 1-year period beginning on the date of the enactment of this Act by the operation of any law or rule of law (including res judicata), such refund or credit may nevertheless be made or allowed if claim therefor is filed before the close of such period.

SEC. 313. PAYMENTS BY CHARITABLE ORGANIZATIONS TREATED AS EXEMPT PAYMENTS.

(a) IN GENERAL.—For purposes of the Internal Revenue Code of 1986—

(1) payments made by an organization described in section 501(c)(3) of such Code by reason of the death, injury, or wounding of an individual incurred as the result of the terrorist attacks against the United States on September 11, 2001, shall be treated as related to the purpose or function constituting the basis for such organization's exemption under section 501 of such Code if such payments are made using an objective formula which is consistently applied, and

(2) in the case of a private foundation (as defined in section 509 of such Code), any payment described in paragraph (1) shall not be treated as made to a disqualified person for purposes of section 4941 of such Code.

(b) EFFECTIVE DATE.—This section shall apply to payments made on or after September 11, 2001.

SEC. 314. EXCLUSION OF CERTAIN CANCELLATIONS OF INDEBTEDNESS.

(a) IN GENERAL.—For purposes of the Internal Revenue Code of 1986—

(1) gross income shall not include any amount which (but for this section) would be includible in gross income by reason of the discharge (in whole or in part) of indebtedness of any taxpayer if the discharge is by reason of the death of an individual incurred as the result of the terrorist attacks against the United States on September 11, 2001, and

(2) return requirements under section 6050P of such Code shall not apply to any discharge described in paragraph (1).

(b) EFFECTIVE DATE.—This section shall apply to discharges made on or after September 11, 2001, and before January 1, 2002.

PART II—GENERAL RELIEF FOR VICTIMS OF DISASTERS AND TERRORISTIC OR MILITARY ACTIONS

SEC. 321. EXCLUSION FOR DISASTER RELIEF PAYMENTS.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 (relating to items specifically excluded from gross income) is amended by redesignating section 139 as section 140 and inserting after section 138 the following new section:

''SEC. 139. DISASTER RELIEF PAYMENTS.

''(a) GENERAL RULE.—Gross income shall not include—

''(1) any amount received as payment under section 406 of the Air Transportation Safety and System Stabilization Act, or

''(2) any amount received by an individual as a qualified disaster relief payment.

''(b) QUALIFIED DISASTER RELIEF PAYMENT DEFINED.—For purposes of this section, the term 'qualified disaster relief payment' means any amount paid to or for the benefit of an individual—

''(1) to reimburse or pay reasonable and necessary personal, family, living, or funeral expenses incurred as a result of a qualified disaster,

''(2) to reimburse or pay reasonable and necessary expenses incurred for the repair or rehabilitation of a personal residence or repair or replacement of its contents to the extent that the need for such repair, rehabilitation, or replacement is attributable to a qualified disaster,

''(3) by a person engaged in the furnishing or sale of transportation as a common carrier by reason of the death or personal physical injuries incurred as a result of a qualified disaster, or

''(4) if such amount is paid by a Federal, State, or local government, or agency or instrumentality thereof, in connection with a qualified disaster in order to promote the general welfare,

but only to the extent any expense compensated by such payment is not otherwise compensated for by insurance or otherwise.

''(c) QUALIFIED DISASTER DEFINED.—For purposes of this section, the term 'qualified disaster' means—

''(1) a disaster which results from a terroristic or military action (as defined in section 692(c)(2)),

''(2) a Presidentially declared disaster (as defined in section 1033(h)(3)),

''(3) a disaster which results from an accident involving a common carrier, or from any other event, which is determined by the Secretary to be of a catastrophic nature, or

''(4) with respect to amounts described in subsection (b)(4), a disaster which is determined by an applicable Federal, State, or local authority (as determined by the Secretary) to warrant assistance from the Federal, State, or local government or agency or instrumentality thereof.

''(d) COORDINATION WITH EMPLOYMENT TAXES.—For purposes of chapter 2 and subtitle C, a qualified disaster relief payment shall not be treated as net earnings from self-employment, wages, or compensation subject to tax.

''(e) NO RELIEF FOR CERTAIN INDIVIDUALS.—Subsection (a) shall not apply with respect to any individual identified by the Attorney General to have been a participant or conspirator in a terroristic action (as so defined), or a representative of such individual.''.

(b) CONFORMING AMENDMENTS.—The table of sections for part III of subchapter B of chapter 1 is amended by striking the item relating to section 139 and inserting the following new items:

''Sec. 139. Disaster relief payments.

''Sec. 140. Cross references to other Acts.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending on or after September 11, 2001.

SEC. 322. AUTHORITY TO POSTPONE CERTAIN DEADLINES AND REQUIRED ACTIONS.

(a) EXPANSION OF AUTHORITY RELATING TO DISASTERS AND TERRORISTIC OR MILITARY ACTIONS.—Section 7508A is amended to read as follows:

''SEC. 7508A. AUTHORITY TO POSTPONE CERTAIN DEADLINES BY REASON OF PRESIDENTIALLY DECLARED DISASTER OR TERRORISTIC OR MILITARY ACTIONS.

''(a) IN GENERAL.—In the case of a taxpayer determined by the Secretary to be affected by a Presidentially declared disaster (as defined in section 1033(h)(3)) or a terroristic or military action (as defined in section 692(c)(2)), the Secretary may specify a period of up to one year that may be disregarded in determining, under the internal revenue laws, in respect of any tax liability of such taxpayer—

''(1) whether any of the acts described in paragraph (1) of section 7508(a) were performed within the time prescribed therefor (determined without regard to extension under any other provision of this subtitle for periods after the date (determined by the Secretary) of such disaster or action),

''(2) the amount of any interest, penalty, additional amount, or addition to the tax for periods after such date, and

''(3) the amount of any credit or refund.

''(b) SPECIAL RULES REGARDING PENSIONS, ETC.—In the case of a pension or other employee benefit plan, or any sponsor, administrator, participant, beneficiary, or other person with respect to such plan, affected by a disaster or action described in subsection (a), the Secretary may specify a period of up to one year which may be disregarded in determining the date by which any action is required or permitted to be completed under this title. No plan shall be treated as failing to be operated in accordance with the terms of the plan solely as the result of disregarding any period by reason of the preceding sentence.

''(c) SPECIAL RULES FOR OVERPAYMENTS.—The rules of section 7508(b) shall apply for purposes of this section.''.

(b) CLARIFICATION OF SCOPE OF ACTS SECRETARY MAY POSTPONE.—Section 7508(a)(1)(K) (relating to time to be disregarded) is amended by striking ''in regulations prescribed under this section''.

(c) CONFORMING AMENDMENTS TO ERISA.—

(1) Part 5 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1131 et seq.) is amended by adding at the end the following new section:

''SEC. 518. AUTHORITY TO POSTPONE CERTAIN DEADLINES BY REASON OF PRESIDENTIALLY DECLARED DISASTER OR TERRORISTIC OR MILITARY ACTIONS.

''In the case of a pension or other employee benefit plan, or any sponsor, administrator, participant, beneficiary, or other person with respect to such plan, affected by a Presidentially declared disaster (as defined in section 1033(h)(3) of the Internal Revenue Code of 1986) or a terroristic or military action (as defined in

section 692(c)(2) of such Code), the Secretary may, notwithstanding any other provision of law, prescribe, by notice or otherwise, a period of up to one year which may be disregarded in determining the date by which any action is required or permitted to be completed under this Act. No plan shall be treated as failing to be operated in accordance with the terms of the plan solely as the result of disregarding any period by reason of the preceding sentence.''.

(2) Section 4002 of Employee Retirement Income Security Act of 1974 (29 U.S.C. 1302) is amended by adding at the end the following new subsection:

''(i) SPECIAL RULES REGARDING DISASTERS, ETC.—In the case of a pension or other employee benefit plan, or any sponsor, administrator, participant, beneficiary, or other person with respect to such plan, affected by a Presidentially declared disaster (as defined in section 1033(h)(3) of the Internal Revenue Code of 1986) or a terroristic or military action (as defined in section 692(c)(2) of such Code), the corporation may, notwithstanding any other provision of law, prescribe, by notice or otherwise, a period of up to one year which may be disregarded in determining the date by which any action is required or permitted to be completed under this Act. No plan shall be treated as failing to be operated in accordance with the terms of the plan solely as the result of disregarding any period by reason of the preceding sentence.''.

(d) ADDITIONAL CONFORMING AMENDMENTS.—

(1) Section 6404 is amended—

(A) by striking subsection (h),

(B) by redesignating subsection (i) as subsection (h), and

(C) by adding at the end the following new subsection:

''(i) CROSS REFERENCE.—

''For authority of the Secretary to abate certain amounts by reason of Presidentially declared disaster or terroristic or military action, see section 7508A.''.

(2) Section 6081(c) is amended to read as follows:

''(c) CROSS REFERENCES.—

''For time for performing certain acts postponed by reason of war, see section 7508, and by reason of Presidentially declared disaster or terroristic or military action, see section 7508A.''.

(3) Section 6161(d) is amended by adding at the end the following new paragraph:

''(3) POSTPONEMENT OF CERTAIN ACTS.—

''For time for performing certain acts postponed by reason of war, see section 7508, and by reason of Presidentially declared disaster or terroristic or military action, see section 7508A.''.

(d) CLERICAL AMENDMENTS.—

(1) The item relating to section 7508A in the table of sections for chapter 77 is amended to read as follows:

''Sec. 7508A. Authority to postpone certain deadlines by reason of Presidentially declared disaster or terroristic or military actions.''.

(2) The table of contents for the Employee Retirement Income Security Act of 1974 is amended by inserting after the item relating to section 517 the following new item:

''Sec. 518. Authority to postpone certain deadlines by reason of Presidentially declared disaster or terroristic or military actions.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to disasters and terroristic or military actions occurring on or after September 11, 2001, with respect to any action of the Secretary of the Treasury, the Secretary of Labor, or the Pension Benefit Guaranty Corporation occurring on or after the date of the enactment of this Act.

SEC. 323. INTERNAL REVENUE SERVICE DISASTER RESPONSE TEAM.

(a) IN GENERAL.—Section 7508A, as amended by section 322(a), is amended by adding at the end the following new subsection:

''(d) DUTIES OF DISASTER RESPONSE TEAM.—The Secretary shall establish as a permanent office in the national office of the Internal Revenue Service a disaster response team which, in coordination with the Federal Emergency Management Agency, shall assist taxpayers in clarifying and resolving Federal tax matters associated with or resulting from any Presidentially declared disaster (as defined in section 1033(h)(3)) or a terroristic or military action (as defined in section 692(c)(2)).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 324. APPLICATION OF CERTAIN PROVISIONS TO TERRORISTIC OR MILITARY ACTIONS.

(a) EXCLUSION FOR DEATH BENEFITS.—Section 101 (relating to certain death benefits) is amended by adding at the end the following new subsection:

''(i) CERTAIN EMPLOYEE DEATH BENEFITS PAYABLE BY REASON OF DEATH FROM TERRORISTIC OR MILITARY ACTIONS.—

''(1) IN GENERAL.—Gross income does not include amounts which are received (whether in a single sum or otherwise) if such amounts are paid by an employer by reason of the death of an employee incurred as a result of a terroristic or military action (as defined in section 692(c)(2)).

''(2) NO RELIEF FOR CERTAIN INDIVIDUALS.—Paragraph (1) shall not apply with respect to any individual identified by the Attorney General to have been a participant or conspirator in a terroristic action (as so defined), or a representative of such individual.

''(3) TREATMENT OF SELF-EMPLOYED INDIVIDUALS.—For purposes of this subsection, the term 'employee' includes a self-employed person (as described in section 401(c)(1)).''.

(b) DISABILITY INCOME.—Section 104(a)(5) (relating to compensation for injuries or sickness) is amended by striking ''a violent attack'' and all that follows through the period and inserting ''a terroristic or military action (as defined in section 692(c)(2)).''.

(c) EXEMPTION FROM INCOME TAX FOR CERTAIN MILITARY OR CIVILIAN EMPLOYEES.—Section 692(c) is amended—

(1) by striking ''outside the United States'' in paragraph (1), and

(2) by striking ''SUSTAINED OVERSEAS'' in the heading.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending on or after September 11, 2001.

SEC. 325. CLARIFICATION OF DUE DATE FOR AIRLINE EXCISE TAX DEPOSITS.

(a) IN GENERAL.—Paragraph (3) of section 301(a) of the Air Transportation Safety and System Stabilization Act (Public Law 107–42) is amended to read as follows:

''(3) AIRLINE-RELATED DEPOSIT.—For purposes of this subsection, the term 'airline-related deposit' means any deposit of taxes imposed by subchapter C of chapter 33 of such Code (relating to transportation by air).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in section 301 of the Air Transportation Safety and System Stabilization Act (Public Law 107–42).

SEC. 326. COORDINATION WITH AIR TRANSPORTATION SAFETY AND SYSTEM STABILIZATION ACT.

No reduction in Federal tax liability by reason of any provision of, or amendment made by, this title shall be considered as being received from a collateral source for purposes of section 402(4) of the Air Transportation Safety and System Stabilization Act (Public Law 107–42).

PART III—DISCLOSURE OF TAX INFORMATION IN TERRORISM AND NATIONAL SECURITY INVESTIGATIONS

SEC. 331. DISCLOSURE OF TAX INFORMATION IN TERRORISM AND NATIONAL SECURITY INVESTIGATIONS.

(a) DISCLOSURE WITHOUT A REQUEST OF INFORMATION RELATING TO TERRORIST ACTIVITIES, ETC.—Paragraph (3) of section 6103(i) (relating to disclosure of return information to apprise appropriate officials of criminal activities or emergency circumstances) is amended by adding at the end the following new subparagraph:

''(C) TERRORIST ACTIVITIES, ETC.—

''(i) IN GENERAL.—Except as provided in paragraph (6), the Secretary may disclose in writing return information (other than taxpayer return information) that may be related to a terrorist incident, threat, or activity to the extent necessary to apprise the head of the appropriate Federal law enforcement agency responsible for investigating or responding to such terrorist incident, threat, or activity. The head of the agency may disclose such return information to officers and employees of such agency to the extent necessary to investigate or respond to such terrorist incident, threat, or activity.

''(ii) DISCLOSURE TO THE DEPARTMENT OF JUSTICE.—Returns and taxpayer return information may also be disclosed to the Attorney General under clause (i) to the extent necessary for, and solely for use in preparing, an application under paragraph (7)(D).

''(iii) TAXPAYER IDENTITY.—For purposes of this subparagraph, a taxpayer's identity shall not be treated as taxpayer return information.

''(iv) TERMINATION.—No disclosure may be made under this subparagraph after December 31, 2003.''.

(b) DISCLOSURE UPON REQUEST OF INFORMATION RELATING TO TERRORIST ACTIVITIES, ETC.—Subsection (i) of section 6103 (relating to disclosure to Federal officers or employees for administration of Federal laws not relating to tax administration) is amended by redesignating paragraph (7) as paragraph (8) and by inserting after paragraph (6) the following new paragraph:

''(7) DISCLOSURE UPON REQUEST OF INFORMATION RELATING TO TERRORIST ACTIVITIES, ETC.—

''(A) DISCLOSURE TO LAW ENFORCEMENT AGENCIES.—

''(i) IN GENERAL.—Except as provided in paragraph (6), upon receipt by the Secretary of a written request which meets the requirements of clause (iii), the Secretary may disclose return information (other than taxpayer return information) to officers and employees of any Federal law enforcement agency who are personally and directly engaged in the response to or investigation of terrorist incidents, threats, or activities.

''(ii) DISCLOSURE TO STATE AND LOCAL LAW ENFORCEMENT AGENCIES.—The head of any Federal law enforcement agency may disclose return information obtained under clause (i) to officers and employees of any State or local law enforcement agency but only if such agency is part of a team with the Federal law enforcement agency in such response or investigation and such information is disclosed only to officers and employees who are personally and directly engaged in such response or investigation.

''(iii) REQUIREMENTS.—A request meets the requirements of this clause if—

''(I) the request is made by the head of any Federal law enforcement agency (or his delegate) involved in the response to or investigation of terrorist incidents, threats, or activities, and

''(II) the request sets forth the specific reason or reasons why such disclosure may be relevant to a terrorist incident, threat, or activity.

''(iv) LIMITATION ON USE OF INFORMATION.—Information disclosed under this subparagraph shall be solely for the use of the officers and employees to whom such information is disclosed in such response or investigation.

''(B) DISCLOSURE TO INTELLIGENCE AGENCIES.—

''(i) IN GENERAL.—Except as provided in paragraph (6), upon receipt by the Secretary of a written request which meets the requirements of clause (ii), the Secretary may disclose return information (other than taxpayer return information) to those officers and employees of the Department of Justice, the Department of the Treasury, and other Federal intelligence agencies who are personally and directly engaged in the collection or analysis of intelligence and counterintelligence information or investigation concerning terrorists and terrorist organizations and activities. For purposes of the preceding sentence, the information disclosed under the preceding sentence shall be solely for the use of such officers and employees in such investigation, collection, or analysis.

''(ii) REQUIREMENTS.—A request meets the requirements of this subparagraph if the request—

''(I) is made by an individual described in clause (iii), and

''(II) sets forth the specific reason or reasons why such disclosure may be relevant to a terrorist incident, threat, or activity.

''(iii) REQUESTING INDIVIDUALS.—An individual described in this subparagraph is an individual—

''(I) who is an officer or employee of the Department of Justice or the Department of the Treasury who is appointed by the President with the advice and consent of the Senate or who is the Director of the United States Secret Service, and

''(II) who is responsible for the collection and analysis of intelligence and counterintelligence information concerning terrorists and terrorist organizations and activities.

''(iv) TAXPAYER IDENTITY.—For purposes of this subparagraph, a taxpayer's identity shall not be treated as taxpayer return information.

''(C) DISCLOSURE UNDER EX PARTE ORDERS.—

''(i) IN GENERAL.—Except as provided in paragraph (6), any return or return information with respect to any specified taxable period or periods shall, pursuant to and upon the grant of an ex parte order by a Federal district court judge or magistrate under clause (ii), be open (but only to the extent necessary as provided in such order) to inspection by, or disclosure to, officers and employees of any Federal law enforcement agency or Federal intelligence agency who are personally and directly engaged in any investigation, response to, or analysis of intelligence and counterintelligence information concerning any terrorist activity or threats. Return or return information opened pursuant to the preceding sentence shall be solely for the use of such officers and employees in the investigation, response, or analysis, and in any judicial, administrative, or grand jury proceedings, pertaining to any such terrorist activity or threat.

''(ii) APPLICATION FOR ORDER.—The Attorney General, the Deputy Attorney General, the Associate Attorney General, any Assistant Attorney General, or any United States attorney may authorize an application to a Federal district court judge or magistrate for the order referred to in clause (i). Upon such application, such judge or magistrate may grant such order if he determines on the basis of the facts submitted by the applicant that—

''(I) there is reasonable cause to believe, based upon information believed to be reliable, that the return or return information may be relevant to a matter relating to such terrorist activity or threat, and

''(II) the return or return information is sought exclusively for use in a Federal investigation, analysis, or proceeding concerning terrorist activity, terrorist threats, or terrorist organizations.

''(D) SPECIAL RULE FOR EX PARTE DISCLOSURE BY THE IRS.—

''(i) IN GENERAL.—Except as provided in paragraph (6), the Secretary may authorize an application to a Federal district court judge or magistrate for the order referred to in subparagraph (C)(i). Upon such application, such judge or magistrate may grant such order if he determines on the basis of the facts submitted by the applicant that the requirements of subparagraph (C)(ii)(I) are met.

''(ii) LIMITATION ON USE OF INFORMATION.—Information disclosed under clause (i)—

''(I) may be disclosed only to the extent necessary to apprise the head of the appropriate Federal law enforcement agency responsible for investigating or responding to a terrorist incident, threat, or activity, and

''(II) shall be solely for use in a Federal investigation, analysis, or proceeding concerning terrorist activity, terrorist threats, or terrorist organizations.

The head of such Federal agency may disclose such information to officers and employees of such agency to the extent necessary to investigate or respond to such terrorist incident, threat, or activity.

''(E) TERMINATION.—No disclosure may be made under this paragraph after December 31, 2003.''.

(c) CONFORMING AMENDMENTS.—

(1) Section 6103(a)(2) is amended by inserting ''any local law enforcement agency receiving information under subsection (i)(7)(A),'' after ''State,''.

(2) The heading of section 6103(i)(3) is amended by inserting ''OR TERRORIST'' after ''CRIMINAL''.

(3) Paragraph (4) of section 6103(i) is amended—

(A) in subparagraph (A) by inserting ''or (7)(C)'' after ''paragraph (1)'', and

(B) in subparagraph (B) by striking ''or (3)(A)'' and inserting ''(3)(A) or (C), or (7)''.

(4) Paragraph (6) of section 6103(i) is amended—

(A) by striking ''(3)(A)'' and inserting ''(3)(A) or (C)'', and

(B) by striking ''or (7)'' and inserting ''(7), or (8)''.

(5) Section 6103(p)(3) is amended—

(A) in subparagraph (A) by striking ''(7)(A)(ii)'' and inserting ''(8)(A)(ii)'', and

(B) in subparagraph (C) by striking ''(i)(3)(B)(i)'' and inserting ''(i)(3)(B)(i) or (7)(A)(ii)''.

(6) Section 6103(p)(4) is amended—

(A) in the matter preceding subparagraph (A)—

(i) by striking ''or (5),'' the first place it appears and inserting ''(5), or (7),'', and

(ii) by striking ''(i)(3)(B)(i),'' and inserting ''(i)(3)(B)(i) or (7)(A)(ii),'', and

(B) in subparagraph (F)(ii) by striking ''or (5),'' the first place it appears and inserting ''(5) or (7),''.

(7) Section 6103(p)(6)(B)(i) is amended by striking ''(i)(7)(A)(ii)'' and inserting ''(i)(8)(A)(ii)''.

(8) Section 6105(b) is amended—

(A) by striking ''or'' at the end of paragraph (2),

(B) by striking ''paragraphs (1) or (2)'' in paragraph (3) and inserting ''paragraph (1), (2), or (3)'',

(C) by redesignating paragraph (3) as paragraph (4), and

(D) by inserting after paragraph (2) the following new paragraph:

''(3) to the disclosure of tax convention information on the same terms as return information may be disclosed under paragraph (3)(C) or (7) of section 6103(i), except that in the case of tax convention information provided by a foreign government, no disclosure may be made under this paragraph without the written consent of the foreign government, or''.

(9) Section 7213(a)(2) is amended by striking ''(i)(3)(B)(i),'' and inserting ''(i)(3)(B)(i) or (7)(A)(ii),''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to disclosures made on or after the date of the enactment of this Act.

TITLE IV—EXTENSIONS OF CERTAIN EXPIRING PROVISIONS

SEC. 401. ALLOWANCE OF NONREFUNDABLE PERSONAL CREDITS AGAINST REGULAR AND MINIMUM TAX LIABILITY.

(a) IN GENERAL.—Paragraph (2) of section 26(a) is amended—

(1) by striking ''RULE FOR 2000 AND 2001.—'' and inserting ''RULE FOR 2000, 2001, AND 2002.—'', and

(2) by striking ''during 2000 or 2001,'' and inserting ''during 2000, 2001, or 2002,''.

(b) CONFORMING AMENDMENTS.—

(1) Section 904(h) is amended by striking ''during 2000 or 2001'' and inserting ''during 2000, 2001, or 2002''.

(2) The amendments made by sections 201(b), 202(f), and 618(b) of the Economic Growth and Tax Relief Reconciliation Act of 2001 shall not apply to taxable years beginning during 2002.

(c) TECHNICAL CORRECTION.—Section 24(d)(1)(B) is amended by striking ''amount of credit allowed by this section'' and inserting ''aggregate amount of credits allowed by this subpart''.

(d) EFFECTIVE DATES.—

(1) The amendments made by subsections (a) and (b) shall apply to taxable years beginning after December 31, 2001.

(2) The amendment made by subsection (c) shall apply to taxable years beginning after December 31, 2000.

SEC. 402. WORK OPPORTUNITY CREDIT.

(a) IN GENERAL.—Subparagraph (B) of section 51(c)(4) is amended by striking ''2001'' and inserting ''2002''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to individuals who begin work for the employer after December 31, 2001.

SEC. 403. WELFARE-TO-WORK CREDIT.

(a) IN GENERAL.—Subsection (f) of section 51A is amended by striking ''2001'' and inserting ''2002''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to individuals who begin work for the employer after December 31, 2001.

SEC. 404. CREDIT FOR ELECTRICITY PRODUCED FROM RENEWABLE RESOURCES.

(a) IN GENERAL.—Subparagraphs (A), (B), and (C) of section 45(c)(3) are each amended by striking ''2002'' and inserting ''2003''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 405. TAXABLE INCOME LIMIT ON PERCENTAGE DEPLETION FOR OIL AND NATURAL GAS PRODUCED FROM MARGINAL PROPERTIES.

(a) IN GENERAL.—Subparagraph (H) of section 613A(c)(6) is amended by striking ''2002'' and inserting ''2003''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2001.

SEC. 406. QUALIFIED ZONE ACADEMY BONDS.

(a) IN GENERAL.—Paragraph (1) of section 1397E(e) is amended by striking ''2000, and 2001'' and inserting ''2000, 2001, and 2002''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 407. SUBPART F EXEMPTION FOR ACTIVE FINANCING.

(a) IN GENERAL.—

(1) Section 953(e)(10) is amended—

(A) by striking ''2002'' and inserting ''2003'', and

(B) by striking ''2001'' and inserting ''2002''.

(2) Section 954(h)(9) is amended by striking ''2002'' and inserting ''2003''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

SEC. 408. COVER OVER OF TAX ON DISTILLED SPIRITS.

(a) IN GENERAL.—Paragraph (1) of section 7652(f) is amended by striking ''2002'' and inserting ''2003''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 409. DELAY IN EFFECTIVE DATE OF REQUIREMENT FOR APPROVED DIESEL OR KEROSENE TERMINALS.

Paragraph (2) of section 1032(f) of the Taxpayer Relief Act of 1997 (Public Law 105–34) is amended by striking ''2002'' and inserting ''2003''.

SEC. 410. DEDUCTION FOR CLEAN-FUEL VEHICLES AND CERTAIN REFUELING PROPERTY.

(a) IN GENERAL.—Section 179A is amended—

(1) in subsection (b)(1)(B)—

(A) by striking ''December 31, 2001,'' and inserting ''December 31, 2002,'', and

(B) in clauses (i), (ii), and (iii), by striking ''2002'', ''2003'', and ''2004'', respectively, and inserting ''2003'', ''2004'', and ''2005'', respectively, and

(2) in subsection (f), by striking ''2004'' and inserting ''2005''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 411. CREDIT FOR QUALIFIED ELECTRIC VEHICLES.

(a) IN GENERAL.—Section 30 is amended—

(1) in subsection (b)(2)—

(A) by striking ''December 31, 2001,'' and inserting ''December 31, 2002,'', and

(B) in subparagraphs (A), (B), and (C), by striking ''2002'', ''2003'', and ''2004'', respectively, and inserting ''2003'', ''2004'', and ''2005'', respectively, and

(2) in subsection (e), by striking ''2004'' and inserting ''2005''.

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (C) of section 280F(a)(1) is amended by adding at the end the following new clause

''(iii) APPLICATION OF SUBPARAGRAPH.—This subparagraph shall apply to property placed in service after August 5, 1997, and before January 1, 2005.''.

(2) Subsection (b) of section 971 of the Taxpayer Relief Act of 1997 is amended by striking ''and before January 1, 2005''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 412. PARITY IN THE APPLICATION OF CERTAIN LIMITS TO MENTAL HEALTH BENEFITS.

(a) IN GENERAL.—Subsection (f) of section 9812 is amended by striking ''2001'' and inserting ''2002''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to plan years beginning after December 31, 2001.

SEC. 413. COMBINED EMPLOYMENT TAX REPORTING.

(a) DEMONSTRATION PROJECT.—Section 976 of the Taxpayer Relief Act of 1997 is amended by striking ''with the date which is 5 years after the date of the enactment of this Act'' and inserting ''on December 31, 2002''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

TITLE V—EXTENSION OF ADDITIONAL PROVISIONS EXPIRING IN 2001

SEC. 501. GENERALIZED SYSTEM OF PREFERENCES.

(a) EXTENSION OF DUTY-FREE TREATMENT UNDER SYSTEM.—Section 505 of the Trade Act of 1974 (19 U.S.C. 2465) is amended by striking ''September 30, 2001'' and inserting ''December 31, 2002''.

(b) RETROACTIVE APPLICATION FOR CERTAIN LIQUIDATIONS AND RELIQUIDATIONS.—

(1) IN GENERAL.—

(A) ENTRY OF CERTAIN ARTICLES.—Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, and subject to paragraph (2), the entry—

(i) of any article to which duty-free treatment under title V of the Trade Act of 1974 would have applied if the entry had been made on September 30, 2001;

(ii) that was made after September 30, 2001, and before the date of enactment of this Act; and

(iii) to which duty-free treatment under title V of that Act did not apply,

shall be liquidated or reliquidated as free of duty, and the Secretary of the Treasury shall refund any duty paid with respect to such entry.

(B) ENTRY.—In this subsection, the term ''entry'' includes a withdrawal from warehouse for consumption.

(2) REQUESTS.—Liquidation or reliquidation may be made under paragraph (1) with respect to an entry only if a request therefor is filed with the Customs Service, within 180 days after the date of enactment of this Act, that contains sufficient information to enable the Customs Service—

(A) to locate the entry; or

(B) to reconstruct the entry if it cannot be located.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 2001.

SEC. 502. ANDEAN TRADE PREFERENCE ACT.

(a) IN GENERAL.—Section 208(b) of the Andean Trade Preference Act (19 U.S.C. 3206(b))is amended by striking ''10 years after December 4, 1991'' and inserting ''after June 4, 2002''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on December 5, 2001.

SEC. 503. REAUTHORIZATION OF TRADE ADJUSTMENT ASSISTANCE.

(a) ASSISTANCE FOR WORKERS.—Section 245 of the Trade Act of 1974 (19 U.S.C. 2317) is amended by striking ''October 1, 1998, and ending September 30, 2001,'' each place it appears and inserting ''October 1, 2001, and ending December 31, 2002,''.

(b) ASSISTANCE FOR FIRMS.—Section 256(b) of the Trade Act of 1974 (19 U.S.C. 2346(b)) is amended by striking ''October 1, 1998, and ending September 30, 2001'' and inserting ''October 1, 2001, and ending December 31, 2002,''.

(c) TERMINATION.—Section 285(c) of the Trade Act of 1974 (19 U.S.C. 2771 note) is amended in paragraphs (1) and (2)(A), by striking ''September 30, 2001'' and inserting ''December 31, 2002''.

(d) TRAINING LIMITATION UNDER NAFTA PROGRAM.—Section 250(d)(2) of the Trade Act of 1974 (19 U.S.C. 2331(d)(2)) is amended by striking ''October 1, 1998, and ending September 30, 2001'' and inserting ''October 1, 2001, and ending December 31, 2002''.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act.

TITLE VI—HEALTH INSURANCE COVERAGE OPTIONS FOR RECENTLY UNEMPLOYED INDIVIDUALS AND THEIR FAMILIES

SEC. 601. PREMIUM ASSISTANCE FOR COBRA CONTINUATION COVERAGE FOR INDIVIDUALS AND THEIR FAMILIES.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, the Secretary of the Treasury, in consultation with the Secretary of Labor, shall establish a program under which 75 percent of the premium for COBRA continuation coverage shall be provided for an individual who—

(A) at any time during the period that begins on September 11, 2001, and ends on December 31, 2002, is separated from employment; and

(B) is eligible for, and has elected coverage under, COBRA continuation coverage.

(2) INCLUSION OF CERTAIN INDIVIDUALS.—For purposes of paragraph (1), the spouse, child, or other individual who was an insured under health insurance coverage of an individual who was killed as a result of the terrorist-related aircraft crashes on September 11, 2001, or as a result of any other terrorist-related event occurring during the period described in that paragraph, and who is eligible for, and has elected coverage under, COBRA continuation coverage shall be eligible for premium assistance under the program established under this section.

(3) STATE OPTION TO ELECT ADMINISTRATION OF PROGRAM.—

(A) IN GENERAL.—A State may elect to administer the premium assistance program established under this section if the State submits to the Secretary of the Treasury, not later than January 1, 2002, a plan that describes how the State will administer such program on behalf of the individuals described in paragraph (1) or (2) who reside in the State beginning on that date.

(B) STATE ENTITLEMENT.—In the case of a State that submits a plan under subparagraph (A), the Secretary of the Treasury shall pay to each such State an amount for each quarter equal to the total amount of premium subsidies provided in that quarter on behalf of such individuals.

(4) IMMEDIATE IMPLEMENTATION.—The program established under this section shall be implemented without regard to whether or not final regulations to carry out such program have been promulgated by the date described in paragraph (1).

(b) LIMITATION OF PERIOD OF PREMIUM ASSISTANCE.—

(1) IN GENERAL.—Premium assistance provided in accordance with this section shall end with respect to an individual on the earlier of—

(A) the date the individual is no longer covered under COBRA continuation coverage; or

(B) 12 months after the date the individual is first enrolled in the premium assistance program established under this section.

(2) NO ASSISTANCE AFTER DECEMBER 31, 2002.—No premium assistance (including payment for such assistance) may be provided under this section after December 31, 2002.

(c) PAYMENT ARRANGEMENTS; CREDITING OF ASSISTANCE.—

(1) PROVISION OF ASSISTANCE.—

(A) IN GENERAL.—Premium assistance shall be provided under the program established under this section through direct payment arrangements with a group health plan (including a multiemployer plan), an issuer of health insurance coverage, an administrator, or an employer as appropriate with respect to the individual provided such assistance.

(B) ADDITIONAL OPTION FOR STATE-RUN PROGRAM.—In the case of a State that elects to administer the program established under this section, such assistance may be provided through

the State public employment office or other agency responsible for administering the State unemployment compensation program.

(2) PREMIUMS PAYABLE BY INDIVIDUAL REDUCED BY AMOUNT OF ASSISTANCE.—Premium assistance provided under this section shall be credited by the group health plan, issuer of health insurance coverage, or an administrator against the premium otherwise owed by the individual involved for COBRA continuation coverage.

(d) PROGRAM REQUIREMENTS.—Premium assistance shall be provided under the program established under this section consistent with the following:

(1) ALL QUALIFYING INDIVIDUALS MAY APPLY.—All individuals described in paragraph (1) or (2) of subsection (a) may apply for such assistance at any time during the period described in subsection (a)(1)(A).

(2) SELECTION ON FIRST-COME, FIRST-SERVED BASIS.—Such assistance shall be provided to such individuals who apply for the assistance in the order in which they apply.

(e) LIMITATION ON ENTITLEMENT.—Nothing in this section shall be construed as establishing any entitlement of individuals described in paragraph (1) or (2) of subsection (a) to premium assistance under this section.

(f) DISREGARD OF SUBSIDIES FOR PURPOSES OF FEDERAL AND STATE PROGRAMS.—Notwithstanding any other provision of law, any premium assistance provided to, or on behalf of, an individual under this section, shall not be considered income or resources in determining eligibility for, or the amount of assistance or benefits provided under, any other Federal public benefit or State or local public benefit.

(g) CHANGE IN COBRA NOTICE.—

(1) GENERAL NOTICE.—

(A) IN GENERAL.—In the case of notices provided under section 4980B(f)(6) of the Internal Revenue Code of 1986, section 2206 of the Public Health Service Act (42 U.S.C. 300bb–6), section 606 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1166), or section 8905a(f)(2)(A) of title 5, United States Code, with respect to individuals who, during the period described in subsection (a)(1)(A), become entitled to elect COBRA continuation coverage, such notices shall include an additional notification to the recipient of the availability of premium assistance for such coverage under this section and for temporary medicaid assistance under section 603 for the remaining portion of COBRA continuation premiums.

(B) ALTERNATIVE NOTICE.—In the case of COBRA continuation coverage to which the notice provision under such sections does not apply, the Secretary of the Treasury, in consultation with the Secretary of Labor, shall, in coordination with administrators of the group health plans (or other entities) that provide or administer the COBRA continuation coverage involved, assure the provision of such notice.

(C) FORM.—The requirement of the additional notification under this paragraph may be met by amendment of existing notice forms or by inclusion of a separate document with the notice otherwise required.

(2) SPECIFIC REQUIREMENTS.—Each additional notification under paragraph (1) shall include—

(A) the forms necessary for establishing eligibility and enrollment in the premium assistance program established under this section in connection with the coverage with respect to each covered employee or other qualified beneficiary;

(B) the name, address, and telephone number necessary to contact the administrator and any other person maintaining relevant information in connection with the premium assistance; and

(C) the following statement displayed in a prominent manner:

''You may be eligible to receive assistance with payment of 75 percent of your COBRA continuation coverage premiums and with temporary medicaid coverage for the remaining premium portion for a duration of not to exceed 12 months.''.

(3) NOTICE RELATING TO RETROACTIVE COVERAGE.—In the case of such notices previously transmitted before the date of enactment of this Act in the case of an individual described in paragraph (1) who has elected (or is still eligible to elect) COBRA continuation coverage as of the date of enactment of this Act, the administrator of the group health plan (or other entity) involved or the Secretary of the Treasury, in consultation with the Secretary of Labor, (in the case described in the paragraph (1)(B)) shall provide (within 60 days after the date of enactment of this Act) for the additional notification required to be provided under paragraph (1).

(4) MODEL NOTICES.—Not later than 30 days after the date of enactment of this Act, the Secretary of the Treasury shall prescribe models for the additional notification required under this subsection.

(h) REPORTS.—Beginning on January 1, 2002, and every 3 months thereafter until January 1, 2003, the Secretary of the Treasury shall submit a report to Congress regarding the premium assistance program established under this section that includes the following:

(1) The status of the implementation of the program.

(2) The number of individuals provided assistance under the program as of the date of the report.

(3) The average dollar amount (monthly and annually) of the premium assistance provided under the program.

(4) The number and identification of the States that have elected to administer the program.

(5) The total amount of expenditures incurred (with administrative expenditures noted separately) under the program as of the date of the report.

(i) APPROPRIATION.—

(1) IN GENERAL.—Out of any funds in the Treasury not otherwise appropriated, there is appropriated to carry out this section, such sums as are necessary for each of fiscal years 2002 and 2003.

(2) OBLIGATION OF FUNDS.—This section constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide for the payment of premium assistance under this section.

(j) SUNSET.—No premium assistance (including payment for such assistance) may be provided under this section after December 31, 2002.

SEC. 602. STATE OPTION TO PROVIDE TEMPORARY MEDICAID COVERAGE FOR CERTAIN UNINSURED INDIVIDUALS.

(a) STATE OPTION.—Notwithstanding any other provision of law, a State may elect to provide under its medicaid program under title XIX of the Social Security Act medical assistance in the case of an individual—

(1) who at any time during the period that begins on September 11, 2001, and ends on December 31, 2002, is separated from employment;

(2) who is not eligible for COBRA continuation coverage;

(3) who is uninsured; and

(4) whose assets, resources, and earned or unearned income (or both) do not exceed such limitations (if any) as the State may establish.

(b) LIMITATION OF PERIOD OF COVERAGE.—Medical assistance provided in accordance with this section shall end with respect to an individual on the earlier of—

(1) the date the individual is no longer uninsured; or

(2) subject to subsection (c)(4), 12 months after the date the individual first receives such assistance.

(c) SPECIAL RULES.—In the case of medical assistance provided under this section—

(1) the Federal medical assistance percentage under section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)) shall be the enhanced FMAP (as defined in section 2105(b) of such Act (42 U.S.C. 1397ee(b)));

(2) a State may elect to apply any income, asset, or resource limitation permitted under the State medicaid plan or under title XIX of such Act;

(3) the provisions of section 1916(g) of the Social Security Act (42 U.S.C. 1396o) shall apply to the provision of such assistance in the same manner as the provisions of such section apply with respect to individuals provided medical assistance only under subclause (XV) or (XVI) of section 1902(a)(10)(A)(ii) of such Act (42 U.S.C. 1396a(a)(10)(A)(ii));

(4) a State may elect to provide such assistance in accordance with section 1902(a)(34) of the Social Security Act (42 U.S.C. 1396a(a)(34)) and any assistance provided with respect to a month described in that section shall not be included in the determination of the 12-month period under subsection (b)(2);

(5) a State may elect to make eligible for such medical assistance a dependent spouse or children of an individual eligible for medical assistance under subsection (a), if such spouse or children are uninsured;

(6) individuals eligible for medical assistance under this section shall be deemed to be described in the list of individuals described in the matter preceding paragraph (1) of section 1905(a) of such Act (42 U.S.C. 1396d(a));

(7) a State may elect to provide such medical assistance without regard to any limitation under sections 401(a), 402(b), 403, and 421 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1611(a), 1612(b), 1613, and 1631) and no debt shall accrue under an affidavit of support against any sponsor of an individual who is an alien who is provided such assistance, and the cost of such assistance shall not be considered as an unreimbursed cost; and

(8) the Secretary of Health and Human Services shall not count, for purposes of section 1108(f) of the Social Security Act (42 U.S.C. 1308(f)), such amount of payments under this section as bears a reasonable relationship to the average national proportion of payments made under this section for the 50 States and the District of Columbia to the payments otherwise made under title XIX for such States and District.

(d) SUNSET.—No medical assistance may be provided under this section after December 31, 2002.

SEC. 603. STATE OPTION TO PROVIDE TEMPORARY COVERAGE UNDER MEDICAID FOR THE UNSUBSIDIZED PORTION OF COBRA CONTINUATION PREMIUMS.

(a) STATE OPTION.—

(1) IN GENERAL.—Notwithstanding any other provision of law, a State may elect to provide under its medicaid program under title XIX of the Social Security Act medical assistance in the form of payment for the portion of the premium for COBRA continuation coverage for which an individual does not receive a subsidy under the premium assistance program established under section 601 in the case of an individual—

(A) who at any time during the period that begins on September 11, 2001, and ends on December 31, 2002, is separated from employment;

(B) who is eligible for, and has elected coverage under, COBRA continuation coverage;

(C) who is receiving premium assistance under the program established under section 601; and

(D) whose family income does not exceed 200 percent of the poverty line.

(2) INCLUSION OF CERTAIN INDIVIDUALS.—For purposes of paragraph (1), the spouse, child, or

other individual who was an insured under health insurance coverage of an individual who was killed as a result of the terrorist-related aircraft crashes on September 11, 2001, or as a result of any other terrorist-related event occurring during the period described in that paragraph, and who satisfies the requirements of subparagraphs (B), (C), and (D) of paragraph (1) shall be eligible for medical assistance under this section.

(b) LIMITATION OF PERIOD OF COVERAGE.—Medical assistance provided in accordance with this section shall end with respect to an individual on the earlier of—

(1) the date the individual is no longer covered under COBRA continuation coverage; or

(2) 12 months after the date the individual first receives such assistance under this section.

(c) SPECIAL RULES.—In the case of medical assistance provided under this section—

(1) such assistance may be provided without regard to—

(A) whether the State otherwise has elected to make medical assistance available for COBRA premiums under section 1902(a)(10)(F) of the Social Security Act (42 U.S.C. 1396a(a)(10)(F)); or

(B) the conditions otherwise imposed for the provision of medical assistance for such COBRA premiums under clause (XII) of the matter following section 1902(a)(10)(G) of the Social Security Act (42 U.S.C. 1396a(a)(10)(G)), or paragraphs (1)(B), (1)(C), (1)(D), and (4) of section 1902(u) of such Act (42 U.S.C. 1396a(u)); and

(2) paragraphs (1), (2), (4), (5), (7), and (8) of subsection (c) of section 602 apply to such assistance in the same manner as such paragraphs apply to the provision of medical assistance under that section.

(d) SUNSET.—No medical assistance may be provided under this section after December 31, 2002.

SEC. 604. TEMPORARY INCREASES OF MEDICAID FMAP FOR FISCAL YEAR 2002.

(a) PERMITTING MAINTENANCE OF FISCAL YEAR 2001 FMAP.—Notwithstanding any other provision of law, but subject to subsection (d), if the FMAP determined without regard to this section for a State for fiscal year 2002 is less than the FMAP as so determined for fiscal year 2001, the FMAP for the State for fiscal year 2001 shall be substituted for the State's FMAP for fiscal year 2002, before the application of this section.

(b) GENERAL 1.50 PERCENTAGE POINTS INCREASE.—Notwithstanding any other provision of law, but subject to subsections (d) and (e), for each State for each calendar quarter in fiscal year 2002, the FMAP (taking into account the application of subsection (a)) shall be increased by 1.50 percentage points.

(c) FURTHER INCREASE FOR STATES WITH HIGH UNEMPLOYMENT RATES.—

(1) IN GENERAL.—Notwithstanding any other provision of law, but subject to subsections (d) and (e), the FMAP for a high unemployment State for a calendar quarter in fiscal year 2002 (and any subsequent calendar quarter in such fiscal year regardless of whether the State continues to be a high unemployment State for a calendar quarter in such fiscal year) shall be increased (after the application of subsections (a) and (b)) by 1.50 percentage points.

(2) HIGH UNEMPLOYMENT STATE.—For purposes of this subsection, a State is a high unemployment State for a calendar quarter if, for any 3 consecutive months beginning on or after June 2001 and ending with the second month before the beginning of the calendar quarter, the State has an unemployment rate that exceeds the national average unemployment rate. Such unemployment rates for such months shall be determined based on publications of the Bureau of Labor Statistics of the Department of Labor.

(d) 1-YEAR INCREASE IN CAP ON MEDICAID PAYMENTS TO TERRITORIES.—Notwithstanding any other provision of law, with respect to fiscal year 2002, the amounts otherwise determined for Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa under section 1108 of the Social Security Act (42 U.S.C. 1308) shall each be increased by an amount equal to 3.093 percentage points of such amounts.

(e) SCOPE OF APPLICATION.—The increases in the FMAP for a State under this section shall apply only for purposes of title XIX of the Social Security Act and shall not apply with respect to—

(1) disproportionate share hospital payments described in section 1923 of such Act (42 U.S.C. 1396r–4); and

(2) payments under titles IV and XXI of such Act (42 U.S.C. 601 et seq. and 1397aa et seq.).

(f) STATE ELIGIBILITY.—A State is eligible for an increase in its FMAP under subsection (b) or (c) only if the eligibility under its State plan under title XIX of the Social Security Act (including any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)) is no more restrictive than the eligibility under such plan (or waiver) as in effect on October 1, 2001.

SEC. 605. DEFINITIONS.

In this title:

(1) ADMINISTRATOR.—The term ''administrator'' has the meaning given that term in section 3(16)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(16)(A)).

(2) COBRA CONTINUATION COVERAGE.—

(A) IN GENERAL.—The term ''COBRA continuation coverage'' means coverage under a group health plan provided by an employer pursuant to title XXII of the Public Health Service Act, section 4980B of the Internal Revenue Code of 1986, part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974, or section 8905a of title 5, United States Code.

(B) APPLICATION TO EMPLOYERS IN STATES REQUIRING SUCH COVERAGE.—Such term includes such coverage provided by an employer in a State that has enacted a law that requires the employer to provide such coverage even though the employer would not otherwise be required to provide such coverage under the provisions of law referred to in subparagraph (A).

(3) COVERED EMPLOYEE.—The term ''covered employee'' has the meaning given that term in section 607(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1167(2)).

(4) FEDERAL PUBLIC BENEFIT.—The term ''Federal public benefit'' has the meaning given that term in section 401(c) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1611(c)).

(5) FMAP.—The term ''FMAP'' means the Federal medical assistance percentage, as defined in section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)).

(6) GROUP HEALTH PLAN.—The term ''group health plan'' has the meaning given that term in section 2791(a) of the Public Health Service Act (42 U.S.C. 300gg–91(a)) and in section 607(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1167(1)).

(7) HEALTH INSURANCE COVERAGE.—The term ''health insurance coverage'' has the meaning given that term in section 2791(b)(1) of the Public Health Service Act (42 U.S.C. 300gg–91(b)(1)).

(8) MULTIEMPLOYER PLAN.—The term ''multiemployer plan'' has the meaning given that term in section 3(37) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(37)).

(9) POVERTY LINE.—The term ''poverty line'' has the meaning given that term in section 2110(c)(5) of the Social Security Act (42 U.S.C. 1397jj(c)(5)).

(10) QUALIFIED BENEFICIARY.—The term ''qualified beneficiary'' has the meaning given that term in section 607(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1167(3)).

(11) STATE.—The term ''State'' has the meaning given such term for purposes of title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

(12) STATE OR LOCAL PUBLIC BENEFIT.—The term ''State or local public benefit'' has the meaning given that term in section 411(c) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1621(c)).

(13) UNINSURED.—

(A) IN GENERAL.—The term ''uninsured'' means, with respect to an individual, that the individual is not covered under—

(i) a group health plan;

(ii) health insurance coverage; or

(iii) a program under title XVIII, XIX, or XXI of the Social Security Act (other than under such title XIX pursuant to section 602).

(B) EXCLUSION.—Such coverage under clause (i) or (ii) shall not include coverage consisting solely of coverage of excepted benefits (as defined in section 2791(c) of the Public Health Service Act (42 U.S.C. 300gg–91(c)).

TITLE VII—TEMPORARY ENHANCED UNEMPLOYMENT BENEFITS

SEC. 701. SHORT TITLE.

This title may be cited as the ''Temporary Unemployment Compensation Act of 2001''.

SEC. 702. FEDERAL-STATE AGREEMENTS.

(a) IN GENERAL.—Any State which desires to do so may enter into and participate in an agreement under this title with the Secretary of Labor (in this title referred to as the ''Secretary''). Any State which is a party to an agreement under this title may, upon providing 30 days' written notice to the Secretary, terminate such agreement.

(b) PROVISIONS OF AGREEMENT.—

(1) IN GENERAL.—Any agreement under subsection (a) shall provide that the State agency of the State will make—

(A) payments of regular compensation to individuals in amounts and to the extent that such payments would be determined if the State law were applied with the modifications described in paragraph (2); and

(B) payments of temporary supplemental unemployment compensation to individuals who—

(i) have exhausted all rights to regular compensation under the State law;

(ii) do not, with respect to a week, have any rights to compensation (excluding extended compensation) under the State law of any other State (whether one that has entered into an agreement under this title or otherwise) nor compensation under any other Federal law (other than under the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note)), and are not paid or entitled to be paid any additional compensation under any Federal or State law; and

(iii) are not receiving compensation with respect to such week under the unemployment compensation law of Canada.

(2) MODIFICATIONS DESCRIBED.—The modifications described in this paragraph are as follows:

(A) ALTERNATIVE BASE PERIOD.—An individual shall be eligible for regular compensation if the individual would be so eligible, determined by applying—

(i) the base period that would otherwise apply under the State law if this title had not been enacted; or

(ii) a base period ending at the close of the calendar quarter most recently completed before the date of the individual's application for benefits, provided that wage data for that quarter has been reported to the State;

whichever results in the greater amount.

(B) PART-TIME EMPLOYMENT.—An individual shall not be denied regular compensation under the State law's provisions relating to availability for work, active search for work, or refusal to accept work, solely by virtue of the fact

that such individual is seeking, or is available for, only part-time (and not full-time) work, if—

(i) the individual's employment on which eligibility for the regular compensation is based was part-time employment; or

(ii) the individual can show good cause for seeking, or being available for, only part-time (and not full-time) work.

(C) INCREASED BENEFITS.—

(i) IN GENERAL.—The amount of regular compensation (including dependents' allowances) payable for any week shall be equal to the amount determined under the State law (before the application of this subparagraph), plus an amount equal to the greater of—

(I) 15 percent of the amount so determined; or

(II) $25.

(ii) ROUNDING.—For purposes of determining the amount under clause (i)(I), such amount shall be rounded to the dollar amount specified under State law.

(c) NONREDUCTION RULE.—Under the agreement, subsection (b)(2)(C) shall not apply (or shall cease to apply) with respect to a State upon a determination by the Secretary that the method governing the computation of regular compensation under the State law of that State has been modified in a way such that—

(1) the average weekly amount of regular compensation which will be payable during the period of the agreement (determined disregarding the modifications described in subsection (b)(2)) will be less than

(2) the average weekly amount of regular compensation which would otherwise have been payable during such period under the State law, as in effect on September 11, 2001.

(d) COORDINATION RULES.—

(1) REGULAR COMPENSATION PAYABLE UNDER A FEDERAL LAW.—The modifications described in subsection (b)(2) shall also apply in determining the amount of benefits payable under any Federal law to the extent that those benefits are determined by reference to regular compensation payable under the State law of the State involved.

(2) TSUC TO SERVE AS SECOND-TIER BENEFITS.—Notwithstanding any other provision of law, extended benefits shall not be payable to any individual for any week for which temporary supplemental unemployment compensation is payable to such individual.

(e) EXHAUSTION OF BENEFITS.—For purposes of subsection (b)(1)(B)(i), an individual shall be considered to have exhausted such individual's rights to regular compensation under a State law when—

(1) no payments of regular compensation can be made under such law because such individual has received all regular compensation available to such individual based on employment or wages during such individual's base period; or

(2) such individual's rights to such compensation have been terminated by reason of the expiration of the benefit year with respect to which such rights existed.

(f) WEEKLY BENEFIT AMOUNT, TERMS AND CONDITIONS, ETC. RELATING TO TSUC.—For purposes of any agreement under this title—

(1) the amount of temporary supplemental unemployment compensation which shall be payable to an individual for any week of total unemployment shall be equal to the amount of regular compensation (including dependents' allowances) payable to such individual under the State law for a week for total unemployment during such individual's benefit year;

(2) the terms and conditions of the State law which apply to claims for regular compensation and to the payment thereof shall apply to claims for temporary supplemental unemployment compensation and the payment thereof, except where inconsistent with the provisions of this title or with the regulations or operating instructions of the Secretary promulgated to carry out this title; and

(3) the maximum amount of temporary supplemental unemployment compensation payable to any individual for whom a temporary supplemental unemployment compensation account is established under section 703 shall not exceed the amount established in such account for such individual.

SEC. 703. TEMPORARY SUPPLEMENTAL UNEMPLOYMENT COMPENSATION ACCOUNT.

(a) IN GENERAL.—Any agreement under this title shall provide that the State will establish, for each eligible individual who files an application for temporary supplemental unemployment compensation, a temporary supplemental unemployment compensation account.

(b) AMOUNT IN ACCOUNT.—

(1) IN GENERAL.—The amount established in an account under subsection (a) shall be equal to the lesser of—

(A) 50 percent of the total amount of regular compensation (including dependents' allowances) payable to the individual during the individual's benefit year under such law; or

(B) 13 times the individual's weekly benefit amount.

(2) WEEKLY BENEFIT AMOUNT.—For purposes of this subsection, an individual's weekly benefit amount for any week is the amount of regular compensation (including dependents' allowances) under the State law payable to such individual for such week for total unemployment.

(3) RULE OF CONSTRUCTION.—For purposes of any computation under paragraph (1) (and any determination of amount under section 702(f)(1)), the modification described in section 702(b)(2)(C) (relating to increased benefits) shall be deemed to have been in effect with respect to the entirety of the benefit year involved.

SEC. 704. PAYMENTS TO STATES HAVING AGREEMENTS UNDER THIS TITLE.

(a) GENERAL RULE.—There shall be paid to each State which has entered into an agreement under this title an amount equal to—

(1) 100 percent of any regular compensation made payable to individuals by such State by virtue of the modifications which are described in section 702(b)(2) and deemed to be in effect with respect to such State pursuant to section 702(b)(1)(A);

(2) 100 percent of any regular compensation—

(A) which is paid to individuals by such State by reason of the fact that its State law contains provisions comparable to the modifications described in subparagraphs (A) and (B) of section 702(b)(2); but only

(B) to the extent that those amounts would, if such amounts were instead payable by virtue of the State law's being deemed to be so modified pursuant to section 702(b)(1)(A), have been reimbursable under paragraph (1); and

(3) 100 percent of the temporary supplemental unemployment compensation paid to individuals by the State pursuant to such agreement.

(b) DETERMINATION OF AMOUNT.—Sums under subsection (a) payable to any State by reason of such State having an agreement under this title shall be payable, either in advance or by way of reimbursement (as may be determined by the Secretary), in such amounts as the Secretary estimates the State will be entitled to receive under this title for each calendar month, reduced or increased, as the case may be, by any amount by which the Secretary finds that the Secretary's estimates for any prior calendar month were greater or less than the amounts which should have been paid to the State. Such estimates may be made on the basis of such statistical, sampling, or other method as may be agreed upon by the Secretary and the State agency of the State involved.

(c) ADMINISTRATIVE EXPENSES, ETC.—There is hereby appropriated out of the employment security administration account of the Unemployment Trust Fund (as established by section 901(a) of the Social Security Act (42 U.S.C. 1101(a))) $500,000,000 to reimburse States for the costs of the administration of agreements under this title (including any improvements in technology in connection therewith) and to provide reemployment services to unemployment compensation claimants in States having agreements under this title. Each State's share of the amount appropriated by the preceding sentence shall be determined by the Secretary according to the factors described in section 302(a) of the Social Security Act (42 U.S.C. 501(a)) and certified by the Secretary to the Secretary of the Treasury.

SEC. 705. FINANCING PROVISIONS.

(a) IN GENERAL.—Funds in the extended unemployment compensation account (as established by section 905(a) of the Social Security Act (42 U.S.C. 1105(a))), and the Federal unemployment account (as established by section 904(g) of such Act (42 U.S.C. 1104(g))), of the Unemployment Trust Fund (as established by section 904(a) of such Act (42 U.S.C. 1104(a))) shall be used, in accordance with subsection (b), for the making of payments (described in section 704(a)) to States having agreements entered into under this title.

(b) CERTIFICATION.—The Secretary shall from time to time certify to the Secretary of the Treasury for payment to each State the sums described in section 704(a) which are payable to such State under this title. The Secretary of the Treasury, prior to audit or settlement by the General Accounting Office, shall make payments to the State in accordance with such certification by transfers from the extended unemployment compensation account, as so established (or, to the extent that there are insufficient funds in that account, from the Federal unemployment account, as so established) to the account of such State in the Unemployment Trust Fund (as so established).

SEC. 706. FRAUD AND OVERPAYMENTS.

(a) IN GENERAL.—If an individual knowingly has made, or caused to be made by another, a false statement or representation of a material fact, or knowingly has failed, or caused another to fail, to disclose a material fact, and as a result of such false statement or representation or of such nondisclosure such individual has received any regular compensation or temporary supplemental unemployment compensation under this title to which he was not entitled, such individual—

(1) shall be ineligible for any further benefits under this title in accordance with the provisions of the applicable State unemployment compensation law relating to fraud in connection with a claim for unemployment compensation; and

(2) shall be subject to prosecution under section 1001 of title 18, United States Code.

(b) REPAYMENT.—In the case of individuals who have received any regular compensation or temporary supplemental unemployment compensation under this title to which such individuals were not entitled, the State shall require such individuals to repay those benefits to the State agency, except that the State agency may waive such repayment if it determines that—

(1) the payment of such benefits was without fault on the part of any such individual; and

(2) such repayment would be contrary to equity and good conscience.

(c) RECOVERY BY STATE AGENCY.—

(1) IN GENERAL.—The State agency may recover the amount to be repaid, or any part thereof, by deductions from any regular compensation or temporary supplemental unemployment compensation payable to such individual

under this title or from any unemployment compensation payable to such individual under any Federal unemployment compensation law administered by the State agency or under any other Federal law administered by the State agency which provides for the payment of any assistance or allowance with respect to any week of unemployment, during the 3-year period after the date such individuals received the payment of the regular compensation or temporary supplemental unemployment compensation to which such individuals were not entitled, except that no single deduction may exceed 50 percent of the weekly benefit amount from which such deduction is made.

(2) OPPORTUNITY FOR HEARING.—No repayment shall be required, and no deduction shall be made, until a determination has been made, notice thereof and an opportunity for a fair hearing has been given to the individual, and the determination has become final.

(d) REVIEW.—Any determination by a State agency under this section shall be subject to review in the same manner and to the same extent as determinations under the State unemployment compensation law, and only in that manner and to that extent.

SEC. 707. DEFINITIONS.

For purposes of this title:

(1) IN GENERAL.—The terms ''compensation'', ''regular compensation'', ''extended compensation'', ''additional compensation'', ''benefit year'', ''base period'', ''State'', ''State agency'', ''State law'', and ''week'' have the respective meanings given such terms under section 205 of the Federal-State Extended Unemployment Compensation Act of 1970, subject to paragraph (2).

(2) STATE LAW AND REGULAR COMPENSATION.—In the case of a State entering into an agreement under this title—

(A) ''State law'' shall be considered to refer to the State law of such State, applied in conformance with the modifications described in section 702(b)(2), subject to section 702(c); and

(B) ''regular compensation'' shall be considered to refer to such compensation, determined under its State law (applied in the manner described in subparagraph (A));

except as otherwise provided or where the context clearly indicates otherwise.

SEC. 708. APPLICABILITY.

(a) IN GENERAL.—An agreement entered into under this title shall apply to weeks of unemployment—

(1) beginning after the date on which such agreement is entered into; and

(2) ending before January 1, 2003.

(b) SPECIFIC RULES.—

(1) IN GENERAL.—Under such an agreement, the following rules shall apply:

(A) ALTERNATIVE BASE PERIODS.—The modification described in section 702(b)(2)(A) (relating to alternative base periods) shall not apply except in the case of initial claims filed on or after the first day of the week that includes September 11, 2001.

(B) PART-TIME EMPLOYMENT AND INCREASED BENEFITS.—The modifications described in subparagraphs (B) and (C) of section 702(b)(2) (relating to part-time employment and increased benefits, respectively) shall apply to weeks of unemployment described in subsection (a), regardless of the date on which an individual's initial claim for benefits is filed.

(C) ELIGIBILITY FOR TSUC.—The payments described in section 702(b)(1)(B) (relating to temporary supplemental unemployment compensation) shall not apply except in the case of individuals exhausting their rights to regular compensation (as described in clause (i) of such section) on or after the first day of the week that includes September 11, 2001.

(2) REAPPLICATION PROCESS.—

(A) ALTERNATIVE BASE PERIODS.—In the case of an individual who filed an initial claim for regular compensation on or after the first day of the week that includes September 11, 2001, and before the date that the State entered into an agreement under subsection (a)(1) that was denied as a result of the application of the base period that applied under the State law prior to the date on which the State entered into the such agreement, such individual—

(i) may refile a claim for regular compensation based on the modification described in section 702(b)(2)(A) (relating to alternative base periods) on or after the date on which the State enters into such agreement and before the date on which such agreement terminates; and

(ii) if eligible, shall be entitled to such compensation only for weeks of unemployment described in subsection (a) beginning on or after the date on which the individual files such claim.

(B) PART-TIME EMPLOYMENT.—In the case of an individual who before the date that the State entered into an agreement under subsection (a)(1) was denied regular compensation under the State law's provisions relating to availability for work, active search for work, or refusal to accept work, solely by virtue of the fact that such individual is seeking, or available for, only part-time (and not full-time) work, such individual—

(i) may refile a claim for regular compensation based on the modification described in section 702(b)(2)(B) (relating to part-time employment) on or after the date on which the State enters into the agreement under subsection (a)(1) and before the date on which such agreement terminates; and

(ii) if eligible, shall be entitled to such compensation only for weeks of unemployment described in subsection (a) beginning on or after the date on which the individual files such claim.

(3) NO RETROACTIVE PAYMENTS FOR WEEKS PRIOR TO AGREEMENT.—No amounts shall be payable to an individual under an agreement entered into under this title for any week of unemployment prior to the week beginning after the date on which such agreement is entered into.

TITLE VIII—EMERGENCY AGRICULTURE ASSISTANCE

Subtitle A—Crop Loss Assistance

SEC. 801. CROP LOSS ASSISTANCE.

(a) IN GENERAL.—The Secretary of Agriculture (referred to in this title as the ''Secretary'') shall use $1,800,000,000 of funds of the Commodity Credit Corporation to make emergency financial assistance available to producers on a farm that have incurred qualifying losses for the 2001 crop.

(b) ADMINISTRATION.—The Secretary shall make assistance available under this section in the same manner as provided under section 815 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (Public Law 105–277; 114 Stat. 1549A–55), including using the same loss thresholds for the quantity and economic losses as were used in administering that section.

(c) USE OF FUNDS FOR CASH PAYMENTS.—The Secretary may use funds made available under this section to make, in a manner consistent with this section, cash payments not for crop disasters, but for income loss to carry out the purposes of this section.

SEC. 802. LIVESTOCK ASSISTANCE PROGRAM.

(a) IN GENERAL.—The Secretary shall use $500,000,000 of the funds of the Commodity Credit Corporation to make and administer payments for livestock losses to producers for 2001 losses in a county that has received an emergency designation by the President or the Secretary after January 1, 2001.

(b) ADMINISTRATION.—The Secretary shall make assistance available under this section in the same manner as provided under section 806 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (Public Law 105–277; 114 Stat. 1549A–51).

SEC. 803. COMMODITY PURCHASES.

(a) IN GENERAL.—The Secretary shall use $220,000,000 of funds of the Commodity Credit Corporation to purchase agricultural commodities, especially agricultural commodities that have experienced low prices during the 2001 crop year, as determined by the Secretary.

(b) GEOGRAPHIC DIVERSITY.—The Secretary is encouraged to purchase agricultural commodities under this section in a manner that reflects the geographic diversity of agricultural production in the United States, particularly agricultural production in the Northeast and Mid-Atlantic States.

(c) OTHER PURCHASES.—The Secretary shall ensure that purchases of agricultural commodities under this section are in addition to purchases by the Secretary under any other law.

(d) TRANSPORTATION AND DISTRIBUTION COSTS.—The Secretary may use not more than $20,000,000 of the funds made available under subsection (a) to provide assistance to States to cover costs incurred by the States in transporting and distributing agricultural commodities purchased under this section.

(e) PURCHASES FOR SCHOOL NUTRITION PROGRAMS.—The Secretary shall use not less than $55,000,000 of the funds made available under subsection (a) to purchase agricultural commodities of the type distributed under section 6(a) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1755(a)) for distribution to schools and service institutions in accordance with section 6(a) of that Act.

Subtitle B—Rural Development

SEC. 811. RURAL COMMUNITY FACILITIES AND UTILITIES.

(a) FUNDING.—

(1) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary of Agriculture—

(A) $130,100,000 for the cost of water or waste disposal direct loans under section 306(a)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(1));

(B) $1,074,798,000 for water or waste disposal grants under section 306(a)(2) of that Act;

(C) $8,362,000 for the cost of community facility direct loans under section 306(a)(1) of that Act; and

(D) $60,000,000 for community facility grants under paragraph (19), (20), or (21) of section 306(a)(1) of that Act.

(2) RECEIPT AND ACCEPTANCE.—The Secretary shall be entitled to receive, shall accept, and shall use in accordance with paragraph (1) the funds transferred under paragraph (1), without further appropriation.

(3) AVAILABILITY OF FUNDS.—Funds transferred under paragraph (1) shall remain available until expended.

(4) APPLICABILITY OF OTHER LAWS.—For the purposes of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a et seq.), this section shall be treated as if enacted in an Act of appropriation.

(5) APPROPRIATED AMOUNTS.—Funds made available under this subsection shall be available to the Secretary—

(A) to provide funds for pending applications for loans, loan guarantees, and grants described in paragraph (1); and

(B) only to the extent that funds for the loans, loan guarantees, and grants appropriated in the annual appropriations Act for fiscal year 2002 have been exhausted.

(b) COMMUNITY FACILITY GUARANTEED LOANS.—The Secretary may guarantee an additional $128,000,000 for community facility guaranteed loans under section 306(a)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(1)).

SEC. 812. RURAL TELECOMMUNICATIONS LOANS.

(a) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary of Agriculture to make insured cost of money rural telecommunications loans under sections 305 and 306 of the Rural Electrification Act of 1936 (7 U.S.C. 935, 936) $40,000,000, to remain available until expended.

(b) RECEIPT AND ACCEPTANCE.—The Secretary shall be entitled to receive, shall accept, and shall use to carry out this section the funds transferred under subsection (a), without further appropriation.

(c) APPLICABILITY OF OTHER LAWS.—For the purposes of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a et seq.), this section shall be treated as if enacted in an Act of appropriation.

SEC. 813. TELEMEDICINE AND DISTANCE LEARNING SERVICES.

(a) IN GENERAL.—The Secretary may make additional loans and grants for the broadband pilot program and for telemedicine and distance learning services under chapter 1 of subtitle D of title XXIII of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 950aaa et seq.).

(b) AMOUNT OF LOANS.—The Secretary shall make loans under this section in an amount not to exceed $400,000,000.

(c) FUNDING.—

(1) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary of Agriculture for the cost of loans and grants under this section $5,000,000, to remain available until expended.

(2) RECEIPT AND ACCEPTANCE.—The Secretary shall be entitled to receive, shall accept, and shall use to carry out this section the funds transferred under paragraph (1), without further appropriation.

(3) APPLICABILITY OF OTHER LAWS.—For the purposes of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a et seq.), this subsection shall be treated as if enacted in an Act of appropriation.

SEC. 814. ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.

In addition to funds otherwise available, the Secretary shall use $1,400,000,000 of funds of the Commodity Credit Corporation to carry out the environmental quality incentives program established under chapter 4 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3839aa et seq.), including technical assistance under the program.

SEC. 815. FARMLAND PROTECTION PROGRAM.

In addition to funds otherwise available, the Secretary shall use $150,000,000 of funds of the Commodity Credit Corporation to carry out the farmland protection program established under section 388 of the Federal Agriculture Improvement and Reform Act of 1996 (16 U.S.C. 3830 note; Public Law 104–127).

Subtitle C—Administration

SEC. 821. COMMODITY CREDIT CORPORATION.

The Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out subtitle A.

SEC. 822. ADMINISTRATIVE EXPENSES.

(a) IN GENERAL.—In addition to funds otherwise available, not later than 30 days after the date of enactment of this Act, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary of Agriculture to pay the salaries and expenses of the Department of Agriculture in carrying out this title $104,500,000, to remain available until expended.

(b) RECEIPT AND ACCEPTANCE.—The Secretary shall be entitled to receive, shall accept, and shall use to carry out this section the funds transferred under subsection (a), without further appropriation.

SEC. 823. REGULATIONS.

(a) IN GENERAL.—The Secretary may promulgate such regulations as are necessary to implement this title.

(b) PROCEDURE.—The promulgation of the regulations and administration of this subtitle shall be made without regard to—

(1) the notice and comment provisions of section 553 of title 5, United States Code;

(2) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and

(3) chapter 35 of title 44, United States Code (commonly known as the ''Paperwork Reduction Act'').

(c) CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.—In carrying out this section, the Secretary shall use the authority provided under section 808 of title 5, United States Code.

TITLE IX—ADDITIONAL PROVISIONS

SEC. 901. CREDIT TO HOLDERS OF QUALIFIED AMTRAK BONDS.

(a) IN GENERAL.—Part IV of subchapter A of chapter 1 (relating to credits against tax) is amended by adding at the end the following new subpart:

''Subpart H—Nonrefundable Credit for Holders of Qualified Amtrak Bonds

''Sec. 54. Credit to holders of qualified Amtrak bonds.

''SEC. 54. CREDIT TO HOLDERS OF QUALIFIED AMTRAK BONDS.

''(a) ALLOWANCE OF CREDIT.—In the case of a taxpayer who holds a qualified Amtrak bond on a credit allowance date of such bond which occurs during the taxable year, there shall be allowed as a credit against the tax imposed by this chapter for such taxable year an amount equal to the sum of the credits determined under subsection (b) with respect to credit allowance dates during such year on which the taxpayer holds such bond.

''(b) AMOUNT OF CREDIT.—

''(1) IN GENERAL.—The amount of the credit determined under this subsection with respect to any credit allowance date for a qualified Amtrak bond is 25 percent of the annual credit determined with respect to such bond.

''(2) ANNUAL CREDIT.—The annual credit determined with respect to any qualified Amtrak bond is the product of—

''(A) the applicable credit rate, multiplied by

''(B) the outstanding face amount of the bond.

''(3) APPLICABLE CREDIT RATE.—For purposes of paragraph (2), the applicable credit rate with respect to an issue is the rate equal to an average market yield (as of the day before the date of sale of the issue) on outstanding long-term corporate debt obligations (determined in such manner as the Secretary prescribes).

''(4) CREDIT ALLOWANCE DATE.—For purposes of this section, the term 'credit allowance date' means—

''(A) March 15,

''(B) June 15,

''(C) September 15, and

''(D) December 15.

Such term includes the last day on which the bond is outstanding.

''(5) SPECIAL RULE FOR ISSUANCE AND REDEMPTION.—In the case of a bond which is issued during the 3-month period ending on a credit allowance date, the amount of the credit determined under this subsection with respect to such credit allowance date shall be a ratable portion of the credit otherwise determined based on the portion of the 3-month period during which the bond is outstanding. A similar rule shall apply when the bond is redeemed.

''(c) LIMITATION BASED ON AMOUNT OF TAX.—

''(1) IN GENERAL.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess of—

''(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(B) the sum of the credits allowable under this part (other than this subpart and subpart C).

''(2) CARRYOVER OF UNUSED CREDIT.—If the credit allowable under subsection (a) exceeds the limitation imposed by paragraph (1) for such taxable year, such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such taxable year.

''(d) CREDIT INCLUDED IN GROSS INCOME.—Gross income includes the amount of the credit allowed to the taxpayer under this section (determined without regard to subsection (c)) and the amount so included shall be treated as interest income.

''(e) QUALIFIED AMTRAK BOND.—For purposes of this part, the term 'qualified Amtrak bond' means any bond issued as part of an issue if—

''(1) 95 percent or more of the proceeds from the sale of such issue are to be used for expenditures incurred after the date of the enactment of this section for any qualified project,

''(2) the bond is issued by the National Railroad Passenger Corporation, is in registered form, and meets the bond limitation requirements under subsection (f),

''(3) the issuer designates such bond for purposes of this section,

''(4) the issuer certifies that it meets the State contribution requirement of subsection (k) with respect to such project, as in effect on the date of issuance,

''(5) the issuer certifies that it has obtained the written approval of the Secretary of Transportation for such project in accordance with subsection (l),

''(6) the term of each bond which is part of such issue does not exceed 20 years,

''(7) the payment of principal with respect to such bond is the obligation of the National Railroad Passenger Corporation, and

''(8) the issue meets the requirements of subsection (g) (relating to arbitrage).

''(f) LIMITATION ON AMOUNT OF BONDS DESIGNATED.—

''(1) NATIONAL LIMITATION.—There is a qualified Amtrak bond limitation for each calendar year. Such limitation is—

''(A) for 2002—

''(i) with respect to qualified projects described in subparagraphs (A), (B), and (C) of subsection (j)(1), $7,000,000,000, and

''(ii) with respect to the qualified project described in subsection (j)(1)(D), $2,000,000,000, and

''(B) except as provided in paragraph (4), zero thereafter.

''(2) LIMITS ON BONDS FOR NORTHEAST RAIL CORRIDOR AND INDIVIDUAL STATES.—

''(A) NORTHEAST RAIL CORRIDOR.—Not more than $2,000,000,000 of the limitation under paragraph (1) may be designated for qualified projects on the northeast rail corridor between Washington, D.C., and Boston, Massachusetts.

''(B) INDIVIDUAL STATES.—Not more than $2,000,000,000 of the limitation under paragraph (1) may be designated for any individual State. The dollar limitation under this subparagraph is

in addition to the dollar limitation for the qualified projects described in subparagraph (A).

''(3) SET ASIDE FOR BONDS FOR NON-FEDERALLY DESIGNATED HIGH-SPEED RAIL CORRIDOR PROJECTS.—Not less than 15 percent of the limitation under paragraph (1) shall be designated for qualified projects described in subsection (j)(1)(C).

''(4) CARRYOVER OF UNUSED LIMITATION.—If for any calendar year—

''(A) the qualified Amtrak limitation amount, exceeds

''(B) the amount of bonds issued during such year which are designated under subsection (e)(3),

the qualified Amtrak limitation amount for the following calendar year shall be increased by the amount of such excess.

Any carryforward of a qualified Amtrak limitation amount may be carried only to calendar year 2003 or 2004.

''(g) SPECIAL RULES RELATING TO ARBITRAGE.—

''(1) IN GENERAL.—Subject to paragraph (2), an issue shall be treated as meeting the requirements of this subsection if as of the date of issuance, the issuer reasonably expects—

''(A) to spend at least 95 percent of the proceeds from the sale of the issue for 1 or more qualified projects within the 3-year period beginning on such date,

''(B) to incur a binding commitment with a third party to spend at least 10 percent of the proceeds from the sale of the issue, or to commence construction, with respect to such projects within the 6-month period beginning on such date, and

''(C) to proceed with due diligence to complete such projects and to spend the proceeds from the sale of the issue.

''(2) RULES REGARDING CONTINUING COMPLIANCE AFTER 3-YEAR DETERMINATION.—If at least 95 percent of the proceeds from the sale of the issue is not expended for 1 or more qualified projects within the 3-year period beginning on the date of issuance, but the requirements of paragraph (1) are otherwise met, an issue shall be treated as continuing to meet the requirements of this subsection if either—

''(A) the issuer uses all unspent proceeds from the sale of the issue to redeem bonds of the issue within 90 days after the end of such 3-year period, or

''(B) the following requirements are met:

''(i) The issuer spends at least 75 percent of the proceeds from the sale of the issue for 1 or more qualified projects within the 3-year period beginning on the date of issuance.

''(ii) Either—

''(I) the issuer spends at least 95 percent of the proceeds from the sale of the issue for 1 or more qualified projects within the 4-year period beginning on the date of issuance, or

''(II) the issuer pays to the Federal Government any earnings on the proceeds from the sale of the issue that accrue after the end of the 3-year period beginning on the date of issuance and uses all unspent proceeds from the sale of the issue to redeem bonds of the issue within 90 days after the end of the 4-year period beginning on the date of issuance.

''(h) RECAPTURE OF PORTION OF CREDIT WHERE CESSATION OF COMPLIANCE.—

''(1) IN GENERAL.—If any bond which when issued purported to be a qualified Amtrak bond ceases to be such a qualified bond, the issuer shall pay to the United States (at the time required by the Secretary) an amount equal to the sum of—

''(A) the aggregate of the credits allowable under this section with respect to such bond (determined without regard to subsection (c)) for taxable years ending during the calendar year in which such cessation occurs and the 2 preceding calendar years, and

''(B) interest at the underpayment rate under section 6621 on the amount determined under subparagraph (A) for each calendar year for the period beginning on the first day of such calendar year.

''(2) FAILURE TO PAY.—If the issuer fails to timely pay the amount required by paragraph (1) with respect to such bond, the tax imposed by this chapter on each holder of any such bond which is part of such issue shall be increased (for the taxable year of the holder in which such cessation occurs) by the aggregate decrease in the credits allowed under this section to such holder for taxable years beginning in such 3 calendar years which would have resulted solely from denying any credit under this section with respect to such issue for such taxable years.

''(3) SPECIAL RULES.—

''(A) TAX BENEFIT RULE.—The tax for the taxable year shall be increased under paragraph (2) only with respect to credits allowed by reason of this section which were used to reduce tax liability. In the case of credits not so used to reduce tax liability, the carryforwards and carrybacks under section 39 shall be appropriately adjusted.

''(B) NO CREDITS AGAINST TAX.—Any increase in tax under paragraph (2) shall not be treated as a tax imposed by this chapter for purposes of determining—

''(i) the amount of any credit allowable under this part, or

''(ii) the amount of the tax imposed by section 55.

''(i) TRUST ACCOUNT.—

''(1) IN GENERAL.—The following amounts shall be held in a trust account by a trustee independent of the National Railroad Passenger Corporation:

''(A) The proceeds from the sale of all bonds designated for purposes of this section.

''(B) The amount of any matching contributions with respect to such bonds.

''(C) The investment earnings on proceeds from the sale of such bonds.

''(D) Any earnings on any amounts described in subparagraph (A), (B), or (C).

''(2) USE OF FUNDS.—Amounts in the trust account may be used only to pay costs of qualified projects and redeem qualified Amtrak bonds, except that amounts withdrawn from the trust account to pay costs of qualified projects may not exceed the aggregate proceeds from the sale of all qualified Amtrak bonds issued under this section.

''(3) USE OF REMAINING FUNDS IN TRUST ACCOUNT.—Upon the redemption of all qualified Amtrak bonds issued under this section, any remaining amounts in the trust account described in paragraph (1) shall be available to the issuer for any qualified project.

''(j) QUALIFIED PROJECT.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified project' means—

''(A) the acquisition, financing, or refinancing of equipment, rolling stock, and other capital improvements (including the introduction of new high-speed technologies such as magnetic levitation systems), including track or signal improvements or the elimination of grade crossings, for the northeast rail corridor between Washington, D.C., and Boston, Massachusetts,

''(B) the acquisition, financing, or refinancing of equipment, rolling stock, and other capital improvements (including the introduction of new high-speed technologies such as magnetic levitation systems), including development of intermodal facilities, track or signal improvements, or the elimination of grade crossings, for the improvement of train speeds or safety (or both) on the high-speed rail corridors designated under section 104(d)(2) of title 23, United States Code, as in effect on the date of the enactment of this section,

''(C) the acquisition, financing, or refinancing of equipment, rolling stock, and other capital improvements, including station rehabilitation or construction, development of intermodal facilities, track or signal improvements, or the elimination of grade crossings, for the improvement of train speeds or safety (or both) for other intercity passenger rail corridors and for the Alaska Railroad, and

''(D) construction, installation of facilities, performance of railroad force account work, and environmental impact studies that facilitate and maximize intercity and regional rail system capacity and connectivity intended to benefit all users, including the National Passenger Rail Corporation, related to the construction of the Trans Hudson Tunnel, an additional railroad passenger tunnel connecting Newark, New Jersey to the City of New York, New York.

''(2) REFINANCING RULES.—For purposes of paragraph (1), a refinancing shall constitute a qualified project only if the indebtedness being refinanced (including any obligation directly or indirectly refinanced by such indebtedness) was originally incurred by the issuer—

''(A) after the date of the enactment of this section,

''(B) for a term of not more than 3 years,

''(C) to finance or acquire capital improvements described in paragraph (1), and

''(D) in anticipation of being refinanced with proceeds of a qualified Amtrak bond.

''(k) STATE CONTRIBUTION REQUIREMENTS.—

''(1) IN GENERAL.—For purposes of subsection (e)(4), the State contribution requirement of this subsection is met with respect to any qualified project if the National Railroad Passenger Corporation has received from 1 or more States, not later than the date of issuance of the bond, matching contributions of not less than 20 percent of the cost of the qualified project.

''(2) NO STATE CONTRIBUTION REQUIREMENT FOR CERTAIN QUALIFIED PROJECTS.—The State contribution requirement of this subsection is zero with respect to any project described in subsection (j)(1)(C) for the Alaska Railroad.

''(3) STATE MATCHING CONTRIBUTIONS MAY NOT INCLUDE FEDERAL FUNDS.—For purposes of this subsection, State matching contributions shall not be derived, directly or indirectly, from Federal funds, including any transfers from the Highway Trust Fund under section 9503.

''(l) DEPARTMENT OF TRANSPORTATION APPROVAL FOR QUALIFIED PROJECTS.—

''(1) IN GENERAL.—The written approval of a qualified project by the Secretary of Transportation required for purposes of subsection (e)(5) shall include—

''(A) the finding by the Inspector General of the Department of Transportation described in paragraph (2),

''(B) the certification by the Secretary of Transportation described in paragraph (3), and

''(C) the agreement by the National Railroad Passenger Corporation described in paragraph (4).

''(2) FINDING BY INSPECTOR GENERAL.—For purposes of paragraph (1), the finding described in this paragraph is a finding by the Inspector General of the Department of Transportation that there is a reasonable likelihood that the proposed project will result in a positive financial contribution to the National Railroad Passenger Corporation and that the investment evaluation process includes consideration of a return on investment, leveraging of funds (including State capital and operating contributions), cost effectiveness, safety improvement, mobility improvement, and feasibility.

''(3) CERTIFICATION.—For purposes of paragraph (1), the certification described in this paragraph is a certification by the Secretary of Transportation that the issuer of the qualified Amtrak bond—

''(A) except with respect to projects described in subsection (j)(1)(C), has entered into a written agreement with the owners of rail properties which are to be improved by the project to be funded by the qualified Amtrak bond, as to the scope and estimated cost of such project and the impact on rail freight capacity, and

''(B) has met the State contribution requirements described in subsection (k).

The National Railroad Passenger Corporation shall not exercise its rights under section 24308(a)(2) of title 49, United States Code, to resolve disputes with respect to a project to be funded by a qualified Amtrak bond, or with respect to the cost of such a project, unless the project is intended to result in railroad speeds of 79 miles per hour or less.

''(4) AGREEMENT BY AMTRAK TO ISSUE ADDITIONAL BONDS FOR PROJECTS OF OTHER CARRIERS.—

''(A) IN GENERAL.—For purposes of paragraph (1), the agreement described in this paragraph is an agreement by the National Railroad Passenger Corporation with the Secretary of Transportation to issue bonds which meet the requirements of this section for use in financing projects described in subparagraph (B).

''(B) PROJECTS COVERED.—For purposes of subparagraph (A), the projects described in this subparagraph are any project described in subsection (j)(1)(B) or (j)(1)(C) for an intercity rail passenger carrier other than the National Railroad Passenger Corporation or for the Alaska Railroad.

''(C) RESPONSIBILITY OF INTERCITY RAIL PASSENGER CARRIER.—Any project financed by bonds referred to in subparagraph (A) shall be carried out by the intercity rail passenger carrier other than the National Railroad Passenger Corporation, through a contract entered into by the National Railroad Passenger Corporation with such carrier.

''(D) INTERCITY RAIL PASSENGER CARRIER DEFINED.—For purposes of this paragraph, the term 'intercity rail passenger carrier' means any rail carrier (as defined in section 24102(7) of such title 49, as in effect on the date of the enactment of this section) which is part of the interstate system of rail transportation and which provides intercity rail passenger transportation (as defined in section 24102(5) of such title 49 (as so in effect)).

''(5) ADDITIONAL SELECTION CRITERIA.—In determining projects to be approved under this subsection (other than projects for the Alaska Railroad), or to be included in an agreement under paragraph (4), the Secretary of Transportation—

''(A) shall base such approval on—

''(i) the results of alternatives analysis and preliminary engineering, and

''(ii) a comprehensive review of mobility improvements, environmental benefits, cost effectiveness, and operating efficiencies, and

''(B) shall give preference to—

''(i) projects supported by evidence of stable and dependable financing sources to construct, maintain, and operate the system or extension,

''(ii) projects expected to have a significant impact on air traffic congestion,

''(iii) projects expected to also improve commuter rail operations,

''(iv) projects that anticipate fares designed to recover costs and generate a return on investment, and

''(v) projects that promote regional balance in infrastructure investment and the national interest in ensuring the development of a nationwide high-speed rail transportation network.

''(m) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) BOND.—The term 'bond' includes any obligation.

''(2) TREATMENT OF CHANGES IN USE.—For purposes of subsection (e)(1), the proceeds from the sale of an issue shall not be treated as used for a qualified project to the extent that the issuer takes any action within its control which causes such proceeds not to be used for a qualified project. The Secretary shall specify remedial actions that may be taken (including conditions to taking such remedial actions) to prevent an action described in the preceding sentence from causing a bond to fail to be a qualified Amtrak bond.

''(3) PARTNERSHIP; S CORPORATION; AND OTHER PASS-THRU ENTITIES.—In the case of a partnership, trust, S corporation, or other pass-thru entity, rules similar to the rules of section 41(g) shall apply with respect to the credit allowable under subsection (a).

''(4) BONDS HELD BY REGULATED INVESTMENT COMPANIES.—If any qualified Amtrak bond is held by a regulated investment company, the credit determined under subsection (a) shall be allowed to shareholders of such company under procedures prescribed by the Secretary.

''(5) REPORTING.—Issuers of qualified Amtrak bonds shall submit reports similar to the reports required under section 149(e).''.

(b) AMENDMENTS TO OTHER CODE SECTIONS.—

(1) REPORTING.—Subsection (d) of section 6049 (relating to returns regarding payments of interest) is amended by adding at the end the following new paragraph:

''(8) REPORTING OF CREDIT ON QUALIFIED AMTRAK BONDS.—

''(A) IN GENERAL.—For purposes of subsection (a), the term 'interest' includes amounts includible in gross income under section 54(d) and such amounts shall be treated as paid on the credit allowance date (as defined in section 54(b)(4)).

''(B) REPORTING TO CORPORATIONS, ETC.—Except as otherwise provided in regulations, in the case of any interest described in subparagraph (A), subsection (b)(4) shall be applied without regard to subparagraphs (A), (H), (I), (J), (K), and (L)(i) of such subsection.

''(C) REGULATORY AUTHORITY.—The Secretary may prescribe such regulations as are necessary or appropriate to carry out the purposes of this paragraph, including regulations which require more frequent or more detailed reporting.''.

(2) TREATMENT FOR ESTIMATED TAX PURPOSES.—

(A) INDIVIDUAL.—Section 6654 (relating to failure by individual to pay estimated income tax) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

''(m) SPECIAL RULE FOR HOLDERS OF QUALIFIED AMTRAK BONDS.—For purposes of this section, the credit allowed by section 54 to a taxpayer by reason of holding a qualified Amtrak bond on a credit allowance date shall be treated as if it were a payment of estimated tax made by the taxpayer on such date.''.

(B) CORPORATE.—Section 6655 (relating to failure by corporation to pay estimated income tax) is amended by adding at the end of subsection (g) the following new paragraph:

''(5) SPECIAL RULE FOR HOLDERS OF QUALIFIED AMTRAK BONDS.—For purposes of this section, the credit allowed by section 54 to a taxpayer by reason of holding a qualified Amtrak bond on a credit allowance date shall be treated as if it were a payment of estimated tax made by the taxpayer on such date.''.

(3) EXCLUSION FROM GROSS INCOME OF CONTRIBUTIONS BY AMTRAK TO OTHER RAIL CARRIERS.—

(A) IN GENERAL.—Section 118 (relating to contributions to the capital of a corporation) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

''(d) SPECIAL RULE FOR CONTRIBUTIONS BY AMTRAK TO OTHER RAIL CARRIERS.—For purposes of this section, the term 'contribution to the capital of the taxpayer' includes any contribution by the National Railroad Passenger Corporation of personal or real property funded by the proceeds of qualified Amtrak bonds under section 54.''.

(B) CONFORMING AMENDMENT.—Subsection (b) of such section 118 is amended by striking ''subsection (c)'' and inserting ''subsections (c) and (d)''.

(4) PROTECTION OF HIGHWAY TRUST FUND.—Section 9503 (relating to Highway Trust Fund) is amended by adding at the end the following new subsection:

''(g) SPECIAL RULES RELATING TO NATIONAL RAILROAD PASSENGER CORPORATION.—

''(1) IN GENERAL.—Except as provided in subsection (c), as in effect on the date of the enactment of this subsection, amounts in the Highway Trust Fund may not be used, either directly or indirectly through a State or local transit authority, to provide funds to the National Railroad Passenger Corporation for any purpose, including issuance of any qualified Amtrak bond pursuant to section 54. The preceding sentence may not be waived by any provision of law which is not contained or referenced in this title, whether such provision of law is a subsequently enacted provision or directly or indirectly seeks to waive the application of such sentence.

''(2) CERTIFICATION BY THE SECRETARY.—The issuance of any qualified Amtrak bonds by the National Railroad Passenger Corporation pursuant to section 54 is conditioned on certification by the Secretary, after consultation with the Secretary of Transportation, within 30 days of a request by the issuer, that with respect to funds of the Highway Trust Fund described under paragraph (1), the issuer either—

''(A) has not received such funds during calendar years commencing with 2002 and ending before the calendar year the bonds are issued, or

''(B) has repaid to the Highway Trust Fund any such funds which were received during such calendar years.

''(3) NO RETROACTIVE EFFECT.—Nothing in this subsection shall adversely affect the entitlement of the holders of qualified Amtrak bonds to the tax credit allowed pursuant to section 54 or to repayment of principal upon maturity.''.

(c) CLERICAL AMENDMENTS.—

(1) The table of subparts for part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

''Subpart H. Nonrefundable Credit for Holders of Qualified Amtrak Bonds.''.

(2) Section 6401(b)(1) is amended by striking ''and G'' and inserting ''G, and H''.

(d) ANNUAL REPORT BY TREASURY ON AMTRAK TRUST ACCOUNT.—The Secretary of the Treasury shall annually report to Congress as to whether the amount deposited in the trust account established by the National Railroad Passenger Corporation under section 54(i) of the Internal Revenue Code of 1986, as added by this section, is sufficient to fully repay at maturity the principal of any outstanding qualified Amtrak bonds issued pursuant to section 54 of such Code (as so added), together with amounts expected to be deposited into such account, as certified by the National Railroad Passenger Corporation in accordance with procedures prescribed by the Secretary of the Treasury.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

(f) MULTI-YEAR CAPITAL SPENDING PLAN AND OVERSIGHT.—

(1) AMTRAK CAPITAL SPENDING PLAN.—

(A) IN GENERAL.—The National Railroad Passenger Corporation shall annually submit to the President and Congress a multi-year capital spending plan, as approved by the Board of Directors of the Corporation.

(B) CONTENTS OF PLAN.—Such plan shall identify the capital investment needs of the Corporation over a period of not less than 5 years and the funding sources available to finance such needs and shall prioritize such needs according to corporate goals and strategies.

(C) INITIAL SUBMISSION DATE.—The first plan shall be submitted before the issuance of any qualified Amtrak bonds by the National Railroad Passenger Corporation pursuant to section 54 of the Internal Revenue Code of 1986 (as added by this section).

(2) OVERSIGHT OF AMTRAK TRUST ACCOUNT AND QUALIFIED PROJECTS.—

(A) TRUST ACCOUNT OVERSIGHT.—The Secretary of the Treasury shall annually report to Congress as to whether the amount deposited in the trust account established by the National Railroad Passenger Corporation under section 54(i) of such Code (as so added) is sufficient to fully repay at maturity the principal of any outstanding qualified Amtrak bonds issued pursuant to section 54 of such Code (as so added), together with amounts expected to be deposited into such account, as certified by the National Railroad Passenger Corporation in accordance with procedures prescribed by the Secretary of the Treasury.

(B) PROJECT OVERSIGHT.—The National Railroad Passenger Corporation shall contract for an annual independent assessment of the costs and benefits of the qualified projects financed by such qualified Amtrak bonds, including an assessment of the investment evaluation process of the Corporation. The annual assessment shall be included in the plan submitted under paragraph (1).

SEC. 902. BROADBAND INTERNET ACCESS TAX CREDIT.

(a) IN GENERAL.—Subpart E of part IV of chapter 1 (relating to rules for computing investment credit) is amended by inserting after section 48 the following:

"SEC. 48A. BROADBAND CREDIT.

''(a) GENERAL RULE.—For purposes of section 46, the broadband credit for any taxable year is the sum of—

''(1) the current generation broadband credit, plus

''(2) the next generation broadband credit.

''(b) CURRENT GENERATION BROADBAND CREDIT; NEXT GENERATION BROADBAND CREDIT.—For purposes of this section—

''(1) CURRENT GENERATION BROADBAND CREDIT.—The current generation broadband credit for any taxable year is equal to 10 percent of the qualified expenditures incurred with respect to qualified equipment providing current generation broadband services to qualified subscribers and taken into account with respect to such taxable year.

''(2) NEXT GENERATION BROADBAND CREDIT.—The next generation broadband credit for any taxable year is equal to 20 percent of the qualified expenditures incurred with respect to qualified equipment providing next generation broadband services to qualified subscribers and taken into account with respect to such taxable year.

''(c) WHEN EXPENDITURES TAKEN INTO ACCOUNT.—For purposes of this section—

''(1) IN GENERAL.—Qualified expenditures with respect to qualified equipment shall be taken into account with respect to the first taxable year in which—

''(A) current generation broadband services are provided through such equipment to qualified subscribers, or

''(B) next generation broadband services are provided through such equipment to qualified subscribers.

''(2) LIMITATION.—

''(A) IN GENERAL.—Qualified expenditures shall be taken into account under paragraph (1) only with respect to qualified equipment—

''(i) the original use of which commences with the taxpayer, and

''(ii) which is placed in service,

after December 31, 2001.

''(B) LEASED EQUIPMENT.—Except as provided in regulations, rules similar to the rules of section 203(b)(3) of the Tax Reform Act of 1986 shall apply.

''(d) SPECIAL ALLOCATION RULES.—

''(1) CURRENT GENERATION BROADBAND SERVICES.—For purposes of determining the current generation broadband credit under subsection (a)(1) with respect to qualified equipment through which current generation broadband services are provided, if the qualified equipment is capable of serving both qualified subscribers and other subscribers, the qualified expenditures shall be multiplied by a fraction—

''(A) the numerator of which is the sum of the number of potential qualified subscribers within the rural areas and the underserved areas which the equipment is capable of serving with current generation broadband services, and

''(B) the denominator of which is the total potential subscriber population of the area which the equipment is capable of serving with current generation broadband services.

''(2) NEXT GENERATION BROADBAND SERVICES.—For purposes of determining the next generation broadband credit under subsection (a)(2) with respect to qualified equipment through which next generation broadband services are provided, if the qualified equipment is capable of serving both qualified subscribers and other subscribers, the qualified expenditures shall be multiplied by a fraction—

''(A) the numerator of which is the sum of—

''(i) the number of potential qualified subscribers within the rural areas and underserved areas, plus

''(ii) the number of potential qualified subscribers within the area consisting only of residential subscribers not described in clause (i),

which the equipment is capable of serving with next generation broadband services, and

''(B) the denominator of which is the total potential subscriber population of the area which the equipment is capable of serving with next generation broadband services.

''(e) DEFINITIONS.—For purposes of this section—

''(1) ANTENNA.—The term 'antenna' means any device used to transmit or receive signals through the electromagnetic spectrum, including satellite equipment.

''(2) CABLE OPERATOR.—The term 'cable operator' has the meaning given such term by section 602(5) of the Communications Act of 1934 (47 U.S.C. 522(5)).

''(3) COMMERCIAL MOBILE SERVICE CARRIER.—The term 'commercial mobile service carrier' means any person authorized to provide commercial mobile radio service as defined in section 20.3 of title 47, Code of Federal Regulations.

''(4) CURRENT GENERATION BROADBAND SERVICE.—The term 'current generation broadband service' means the transmission of signals at a rate of at least 1,000,000 bits per second to the subscriber and at least 128,000 bits per second from the subscriber.

''(5) MULTIPLEXING OR DEMULTIPLEXING.—The term 'multiplexing' means the transmission of 2 or more signals over a single channel, and the term 'demultiplexing' means the separation of 2 or more signals previously combined by compatible multiplexing equipment.

''(6) NEXT GENERATION BROADBAND SERVICE.—The term 'next generation broadband service' means the transmission of signals at a rate of at least 22,000,000 bits per second to the subscriber and at least 5,000,000 bits per second from the subscriber.

''(7) NONRESIDENTIAL SUBSCRIBER.—The term 'nonresidential subscriber' means a person who purchases broadband services which are delivered to the permanent place of business of such person.

''(8) OPEN VIDEO SYSTEM OPERATOR.—The term 'open video system operator' means any person authorized to provide service under section 653 of the Communications Act of 1934 (47 U.S.C. 573).

''(9) OTHER WIRELESS CARRIER.—The term 'other wireless carrier' means any person (other than a telecommunications carrier, commercial mobile service carrier, cable operator, open video system operator, or satellite carrier) providing current generation broadband services or next generation broadband service to subscribers through the radio transmission of energy.

''(10) PACKET SWITCHING.—The term 'packet switching' means controlling or routing the path of a digitized transmission signal which is assembled into packets or cells.

''(11) PROVIDER.—The term 'provider' means, with respect to any qualified equipment—

''(A) a cable operator,

''(B) a commercial mobile service carrier,

''(C) an open video system operator,

''(D) a satellite carrier,

''(E) a telecommunications carrier, or

''(F) any other wireless carrier,

providing current generation broadband services or next generation broadband services to subscribers through such qualified equipment.

''(12) PROVISION OF SERVICES.—A provider shall be treated as providing services to a subscriber if—

''(A) a subscriber has been passed by the provider's equipment and can be connected to such equipment for a standard connection fee,

''(B) the provider is physically able to deliver current generation broadband services or next generation broadband services, as applicable, to such subscribers without making more than an insignificant investment with respect to any such subscriber,

''(C) the provider has made reasonable efforts to make such subscribers aware of the availability of such services,

''(D) such services have been purchased by one or more such subscribers, and

''(E) such services are made available to such subscribers at average prices comparable to those at which the provider makes available similar services in any areas in which the provider makes available such services.

''(13) QUALIFIED EQUIPMENT.—

''(A) IN GENERAL.—The term 'qualified equipment' means equipment which provides current generation broadband services or next generation broadband services—

''(i) at least a majority of the time during periods of maximum demand to each subscriber who is utilizing such services, and

''(ii) in a manner substantially the same as such services are provided by the provider to subscribers through equipment with respect to which no credit is allowed under subsection (a)(1).

''(B) ONLY CERTAIN INVESTMENT TAKEN INTO ACCOUNT.—Except as provided in subparagraph (C) or (D), equipment shall be taken into account under subparagraph (A) only to the extent it—

''(i) extends from the last point of switching to the outside of the unit, building, dwelling, or office owned or leased by a subscriber in the case of a telecommunications carrier,

''(ii) extends from the customer side of the mobile telephone switching office to a transmission/receive antenna (including such antenna) owned or leased by a subscriber in the case of a commercial mobile service carrier,

''(iii) extends from the customer side of the headend to the outside of the unit, building, dwelling, or office owned or leased by a subscriber in the case of a cable operator or open video system operator, or

''(iv) extends from a transmission/receive antenna (including such antenna) which transmits and receives signals to or from multiple subscribers to a transmission/receive antenna (including such antenna) on the outside of the unit, building, dwelling, or office owned or leased by a subscriber in the case of a satellite carrier or other wireless carrier, unless such other wireless carrier is also a telecommunications carrier.

''(C) PACKET SWITCHING EQUIPMENT.—Packet switching equipment, regardless of location, shall be taken into account under subparagraph (A) only if it is deployed in connection with equipment described in subparagraph (B) and is uniquely designed to perform the function of packet switching for current generation broadband services or next generation broadband services, but only if such packet switching is the last in a series of such functions performed in the transmission of a signal to a subscriber or the first in a series of such functions performed in the transmission of a signal from a subscriber.

''(D) MULTIPLEXING AND DEMULTIPLEXING EQUIPMENT.—Multiplexing and demultiplexing equipment shall be taken into account under subparagraph (A) only to the extent it is deployed in connection with equipment described in subparagraph (B) and is uniquely designed to perform the function of multiplexing and demultiplexing packets or cells of data and making associated application adaptions, but only if such multiplexing or demultiplexing equipment is located between packet switching equipment described in subparagraph (C) and the subscriber's premises.

''(14) QUALIFIED EXPENDITURE.—

''(A) IN GENERAL.—The term 'qualified expenditure' means any amount—

''(i) chargeable to capital account with respect to the purchase and installation of qualified equipment (including any upgrades thereto) for which depreciation is allowable under section 168, and

''(ii) incurred after December 31, 2001, and before January 1, 2003.

''(B) CERTAIN SATELLITE EXPENDITURES EXCLUDED.—Such term shall not include any expenditure with respect to the launching of any satellite equipment.

''(15) QUALIFIED SUBSCRIBER.—The term 'qualified subscriber' means—

''(A) with respect to the provision of current generation broadband services—

''(i) a nonresidential subscriber maintaining a permanent place of business in a rural area or underserved area, or

''(ii) a residential subscriber residing in a dwelling located in a rural area or underserved area which is not a saturated market, and

''(B) with respect to the provision of next generation broadband services—

''(i) a nonresidential subscriber maintaining a permanent place of business in a rural area or underserved area, or

''(ii) a residential subscriber.

''(16) RESIDENTIAL SUBSCRIBER.—The term 'residential subscriber' means an individual who purchases broadband services which are delivered to such individual's dwelling.

''(17) RURAL AREA.—The term 'rural area' means any census tract which—

''(A) is not within 10 miles of any incorporated or census designated place containing more than 25,000 people, and

''(B) is not within a county or county equivalent which has an overall population density of more than 500 people per square mile of land.

''(18) RURAL SUBSCRIBER.—The term 'rural subscriber' means a residential subscriber residing in a dwelling located in a rural area or nonresidential subscriber maintaining a permanent place of business located in a rural area.

''(19) SATELLITE CARRIER.—The term 'satellite carrier' means any person using the facilities of a satellite or satellite service licensed by the Federal Communications Commission and operating in the Fixed-Satellite Service under part 25 of title 47 of the Code of Federal Regulations or the Direct Broadcast Satellite Service under part 100 of title 47 of such Code to establish and operate a channel of communications for distribution of signals, and owning or leasing a capacity or service on a satellite in order to provide such distribution.

''(20) SATURATED MARKET.—The term 'saturated market' means any census tract in which, as of the date of the enactment of this section—

''(A) current generation broadband services have been provided by one or more providers to 85 percent or more of the total number of potential residential subscribers residing in dwellings located within such census tract, and

''(B) such services can be utilized—

''(i) at least a majority of the time during periods of maximum demand by each such subscriber who is utilizing such services, and

''(ii) in a manner substantially the same as such services are provided by the provider to subscribers through equipment with respect to which no credit is allowed under subsection (a)(1).

''(21) SUBSCRIBER.—The term 'subscriber' means a person who purchases current generation broadband services or next generation broadband services.

''(22) TELECOMMUNICATIONS CARRIER.—The term 'telecommunications carrier' has the meaning given such term by section 3(44) of the Communications Act of 1934 (47 U.S.C. 153(44)), but—

''(A) includes all members of an affiliated group of which a telecommunications carrier is a member, and

''(B) does not include a commercial mobile service carrier.

''(23) TOTAL POTENTIAL SUBSCRIBER POPULATION.—The term 'total potential subscriber population' means, with respect to any area and based on the most recent census data, the total number of potential residential subscribers residing in dwellings located in such area and potential nonresidential subscribers maintaining permanent places of business located in such area.

''(24) UNDERSERVED AREA.—The term 'underserved area' means any census tract which is located in—

''(A) an empowerment zone or enterprise community designated under section 1391,

''(B) the District of Columbia Enterprise Zone established under section 1400,

''(C) a renewal community designated under section 1400E, or

''(D) a low-income community designated under section 45D.

''(25) UNDERSERVED SUBSCRIBER.—The term 'underserved subscriber' means a residential subscriber residing in a dwelling located in an underserved area or nonresidential subscriber maintaining a permanent place of business located in an underserved area.

''(f) DESIGNATION OF CENSUS TRACTS.—The Secretary shall, not later than 90 days after the date of the enactment of this section, designate and publish those census tracts meeting the criteria described in paragraphs (17), (20), and (24) of subsection (e). In making such designations, the Secretary shall consult with such other departments and agencies as the Secretary determines appropriate.''.

(b) CREDIT TO BE PART OF INVESTMENT CREDIT.—Section 46 (relating to the amount of investment credit) is amended by striking ''and'' at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting '', and'', and by adding at the end the following:

''(4) the broadband credit.''

(c) SPECIAL RULE FOR MUTUAL OR COOPERATIVE TELEPHONE COMPANIES.—Section 501(c)(12)(B) (relating to list of exempt organizations) is amended by striking ''or'' at the end of clause (iii), by striking the period at the end of clause (iv) and inserting '', or'', and by adding at the end the following:

''(v) from the sale of property subject to a lease described in section 48A(c)(2)(B), but only to the extent such income does not in any year exceed an amount equal to the credit for qualified expenditures which would be determined under section 48A for such year if the mutual or cooperative telephone company was not exempt from taxation and was treated as the owner of the property subject to such lease.''.

(d) CONFORMING AMENDMENT.—The table of sections for subpart E of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 48 the following:

''Sec. 48A. Broadband credit.''.

(e) REGULATORY MATTERS.—

(1) PROHIBITION.—No Federal or State agency or instrumentality shall adopt regulations or ratemaking procedures that would have the effect of confiscating any credit or portion thereof allowed under section 48A of the Internal Revenue Code of 1986 (as added by this section) or otherwise subverting the purpose of this section.

(2) TREASURY REGULATORY AUTHORITY.—It is the intent of Congress in providing the broadband credit under section 48A of the Internal Revenue Code of 1986 (as added by this section) to provide incentives for the purchase, installation, and connection of equipment and facilities offering expanded broadband access to the Internet for users in certain low income and rural areas of the United States, as well as to residential users nationwide, in a manner that maintains competitive neutrality among the various classes of providers of broadband services. Accordingly, the Secretary of the Treasury shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of section 48A of such Code, including—

(A) regulations to determine how and when a taxpayer that incurs qualified expenditures satisfies the requirements of section 48A of such Code to provide broadband services, and

(B) regulations describing the information, records, and data taxpayers are required to provide the Secretary to substantiate compliance with the requirements of section 48A of such Code.

Until the Secretary prescribes such regulations, taxpayers may base such determinations on any reasonable method that is consistent with the purposes of section 48A of such Code.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to expenditures incurred after December 31, 2001, and before January 1, 2003.

SEC. 903. CITRUS TREE CANKER RELIEF.

(a) EXPANSION OF PERIOD WITHIN WHICH CONVERTED CITRUS TREE PROPERTY MUST BE REPLACED.—

(1) IN GENERAL.—Section 1033 (relating to period within which property must be replaced) is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

''(k) COMMERCIAL TREES DESTROYED BECAUSE OF CITRUS TREE CANKER.—In the case of commercial citrus trees which are compulsorily or involuntarily converted under a public order as a result of the citrus tree canker, clause (i) of subsection (a)(2)(B) shall be applied as if such clause reads: '4 years after the close of the taxable year in which a State or Federal plant health authority determines that the land on which such trees grew is free from the bacteria that causes citrus tree canker'.''.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to taxable years

beginning before, on, or after the date of the enactment of this Act.

(b) 10-YEAR RATABLE INCOME INCLUSION FOR CITRUS CANKER TREE PAYMENTS.—

(1) IN GENERAL.—Part I of subchapter Q of chapter 1 (relating to income averaging) is amended by inserting after section 1301 the following new section:

''SEC. 1302. 10-YEAR RATABLE INCOME INCLUSION FOR CITRUS CANKER TREE PAYMENTS.

''(a) IN GENERAL.—At the election of the taxpayer, any amount taken into account as income or gain by reason of receiving a citrus canker tree payment shall be included in the income of the taxpayer ratably over the 10–year period beginning with the taxable year in which the payment is received or accrued by the taxpayer. Any election under the preceding sentence shall be irrevocable.

''(b) CITRUS CANKER TREE PAYMENT.—For purposes of subsection (a), the term 'citrus canker tree payment' means a payment made to an owner of a commercial citrus grove to recover income that was lost as a result of the removal of commercial citrus trees to control canker under the amendments to the citrus canker regulations (7 C.F.R. 301) made by the final rule published in the Federal Register by the Secretary of Agriculture on June 18, 2001 (66 Fed. Reg. 32713, Docket No. 00-37-4).''.

(2) CLERICAL AMENDMENT.—The table of sections for part I of subchapter Q of chapter 1 is amended by inserting after the item relating to section 1301 the following new item:

''Sec. 1302. 10-year ratable income inclusion for citrus canker tree payments.''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to payments made before, on, or after the date of the enactment of this Act.

SEC. 904. ALLOWANCE OF ELECTRONIC 1099S.

Except as otherwise provided by the Secretary of the Treasury, any person required to furnish a statement under any section of subpart B of part III of subchapter A of chapter 61 of the Internal Revenue Code of 1986 for any taxable year ending after the date of the enactment of this Act and before January 1, 2003, may electronically furnish such statement to any recipient who has consented to the electronic provision of the statement in a manner similar to the one permitted under regulations issued under section 6051 of such Code or in such other manner as provided by the Secretary.

SEC. 905. CLARIFICATION OF EXCISE TAX EXEMPTIONS FOR AGRICULTURAL AERIAL APPLICATORS.

(a) NO WAIVER BY FARM OWNER, TENANT, OR OPERATOR NECESSARY.—Subparagraph (B) of section 6420(c)(4) (relating to certain farming use other than by owner, etc.) is amended to read as follows:

''(B) if the person so using the gasoline is an aerial or other applicator of fertilizers or other substances and is the ultimate purchaser of the gasoline, then subparagraph (A) of this paragraph shall not apply and the aerial or other applicator shall be treated as having used such gasoline on a farm for farming purposes.''.

(b) EXEMPTION INCLUDES FUEL USED BETWEEN AIRFIELD AND FARM.—Section 6420(c)(4), as amended by subsection (a), is amended by adding at the end the following new flush sentence:

''For purposes of this paragraph, in the case of an aerial applicator, gasoline shall be treated as used on a farm for farming purposes if the gasoline is used for the direct flight between the airfield and 1 or more farms.''.

(c) EXEMPTION FROM TAX ON AIR TRANSPORTATION OF PERSONS FOR FORESTRY PURPOSES EXTENDED TO FIXED-WING AIRCRAFT.—Subsection (f) of section 4261 (relating to tax on air transportation of persons) is amended to read as follows:

''(f) EXEMPTION FOR CERTAIN USES.—No tax shall be imposed under subsection (a) or (b) on air transportation—

''(1) by helicopter for the purpose of transporting individuals, equipment, or supplies in the exploration for, or the development or removal of, hard minerals, oil, or gas, or

''(2) by helicopter or by fixed-wing aircraft for the purpose of the planting, cultivation, cutting, or transportation of, or caring for, trees (including logging operations),

but only if the helicopter or fixed-wing aircraft does not take off from, or land at, a facility eligible for assistance under the Airport and Airway Development Act of 1970, or otherwise use services provided pursuant to section 44509 or 44913(b) or subchapter I of chapter 471 of title 49, United States Code, during such use. In the case of helicopter transportation described in paragraph (1), this subsection shall be applied by treating each flight segment as a distinct flight.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel use or air transportation after December 31, 2001, and before January 1, 2003.

SEC. 906. RECOVERY PERIOD FOR CERTAIN WIRELESS TELECOMMUNICATIONS EQUIPMENT.

(a) 5-YEAR RECOVERY PERIOD FOR CERTAIN WIRELESS TELECOMMUNICATIONS EQUIPMENT.—

(1) IN GENERAL.—Subparagraph (A) of section 168(i)(2) (defining qualified technological equipment) is amended by striking ''and'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting '', and'', and by adding at the end the following:

''(iv) any wireless telecommunication equipment.''.

(2) DEFINITION OF WIRELESS TELECOMMUNICATION EQUIPMENT.—Paragraph (2) of section 168(i) is amended by adding at the end the following:

''(D) WIRELESS TELECOMMUNICATION EQUIPMENT.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'wireless telecommunication equipment' means equipment which is—

''(I) used in the transmission, reception, coordination, or switching of wireless telecommunications service, and

''(II) placed in service before September 11, 2002.

For purposes of this clause, the term 'wireless telecommunications service' includes any commercial mobile radio service as defined in title 47 of the Code of Federal Regulations.

''(ii) EXCEPTION.—The term 'wireless telecommunication equipment' shall not include towers, buildings, T–1 lines, or other cabling which connects cell sites to mobile switching centers.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after September 10, 2001.

SEC. 907. NO IMPACT ON SOCIAL SECURITY TRUST FUND.

(a) IN GENERAL.—Nothing in this Act (or an amendment made by this Act) shall be construed to alter or amend title II of the Social Security Act (or any regulation promulgated under that Act).

(b) TRANSFERS.—

(1) ESTIMATE OF SECRETARY.—The Secretary of the Treasury shall annually estimate the impact that the enactment of this Act has on the income and balances of the trust funds established under section 201 of the Social Security Act (42 U.S.C. 401).

(2) TRANSFER OF FUNDS.—If, under paragraph (1), the Secretary of the Treasury estimates that the enactment of this Act has a negative impact on the income and balances of the trust funds established under section 201 of the Social Security Act (42 U.S.C. 401), the Secretary shall transfer, not less frequently than quarterly, from the general revenues of the Federal Government an amount sufficient so as to ensure that the income and balances of such trust funds are not reduced as a result of the enactment of this Act.

SEC. 908. EMERGENCY DESIGNATION.

Congress designates as emergency requirements pursuant to section 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985 the following amounts:

(1) An amount equal to the amount by which revenues are reduced by this Act below the recommended levels of Federal revenues for fiscal year 2002, the total of fiscal years 2002 through 2006, and the total of fiscal years 2002 through 2011, provided in the conference report accompanying H. Con. Res. 83, the concurrent resolution on the budget for fiscal year 2002.

(2) Amounts equal to the amounts of new budget authority and outlays provided in this Act in excess of the allocations under section 302(a) of the Congressional Budget Act of 1974 to the Committee on Finance of the Senate for fiscal year 2002, the total of fiscal years 2002 through 2006, and the total of fiscal years 2002 through 2011.

Amend the title so as to read: ''An Act to provide incentives for an economic recovery and tax relief for victims of terrorism, and for other purposes.''.

Mr. BAUCUS. Mr. President, I would like to clarify for the record and I ask unanimous consent that the previous order with respect to Executive Calendar No. 511 remain in effect.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Therefore, the order with respect to H.R. 3090 should now reflect that the debate-only limitation will extend until 4:45 today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, we are now on the Economic Recovery Act. I would like to make a few comments on it, if I might. I know I will be followed by my very good friend, a terrific Senator, Mr. GRASSLEY from Iowa.

This is a sober time. Our Nation is at war overseas and at home. Like all Americans, we are struggling to respond, to hold together, to assume our responsibilities. Among other things, we in this Chamber have the responsibility to help get the economy back on track.

The September 11 attacks took a bad economic situation—our economy was deteriorating—and made it significantly worse. I very sadly add, the tragic crash of an American Airlines plane yesterday in New York, I am sure, adds more angst and concern across our country, which has a very direct effect on people's emotions and psychology, but also, to some degree, on the economy, people's willingness to believe in the future.

We had virtually no economic growth in the second quarter of this year, and we have had negative growth in the third quarter of this year, 2001.

In addition, in October unemployment jumped from 4.9 percent to 5.4

percent. That is the largest jump since May of 1980. We also have reports of 638,000 layoffs of American workers announced since September 11.

Manufacturing has been particularly hard hit. Last month, manufacturing lost 142,000 jobs. That was just in the one month of October. That was the 15th consecutive month that manufacturing jobs dropped.

Since July of last year—a little over a year ago—manufacturing has lost an incredible 1.3 million jobs. That is over about 15, 16 months. Manufacturing employment has now fallen to its lowest levels since November 1965.

The problems are not limited to the manufacturing sector. In October, nonmanufacturing industries experienced the most dramatic slowdown in business activity since a report by the National Association of Purchasing Managers began in 1997.

Agricultural producers are hurting, too. Net farm business income was at a 10-year low in 1999 and 2000. Still, unless Government assistance is continued, net farm income in 2001 is actually projected to be lower than farm income in 1999 and 2000. The most acute problems are faced by farmers whose farms have been hit by floods, drought, tornadoes, and other national disasters.

Finally, the economies of New York and the surrounding regions have taken an unimaginably severe blow from the events of September 11. It is not just the economy of the New York region that has taken a hit. It is our highly interdependent economy all across our entire country that has suffered as a consequence of the Twin Towers and the Pentagon tragedies as well as the other events that have occurred.

So what can we do? How do we help Americans regain confidence in the future so people want to, for example, buy refrigerators and cars, take family vacations, and have a really good, confident feeling about the future? How do we help businesses believe in the future, invest in new products, design new products and ways of doing things? It is a psychology that really comes down to confidence. How do we help engender the confidence we all desire?

First, there is something—the fancy term is ''monetary policy.'' That is essentially the Federal Reserve System essentially raising or lowering interest rates to help make borrowing more expensive or less expensive. Basically, I think the Federal Reserve has done a pretty good job.

Last week, the Federal Reserve Board cut short-term interest rates for the 10th time this year—that is a lot of cuts over 1 year—clearly, trying to help make borrowing less expensive, people more inclined to borrow and to spend more, putting more money into the economy. My guess is, more rate cuts will follow.

But monetary policy alone does not appear to be enough. We also have to pass legislation to stimulate the economy through what is called fiscal policy. Just as a reminder, fiscal policy is when Congress basically either raises taxes or lowers taxes—spends money or does not spend as much—with an economic effect on the economy. To stimulate the economy through traditional garden variety fiscal policy, Congress spends money.

Now, there are a couple of ways to spend money. One is through cutting taxes; that is, in effect, spending money. The other is direct expenditures by the Congress. We are trying to figure out how to stimulate the economy by spending money.

Now, there is no magic, clearly—no magic, no recipe that will send us going back to double-digit growth. Nevertheless, I think there are some simple guidelines that we in Congress can follow to help regain that confidence. Most significantly, the bipartisan leaders of the House and Senate Budget Committees provided us about a month ago with some very important guidelines. This is very important. The leadership of the Budget Committee—Republicans and Democrats, both House and Senate—all got together. That is remarkable. A lot of times around here we are not always on the same page. But all four of them got together because they were thinking of the longer term, about our national budget. They agreed upon a certain set of guidelines they thought were appropriate in an economic stimulus, economic recovery, a package that we might pass.

Let me try to put in my own words what they said. They first said the economic recovery stimulus bill should be temporary—that is, something that is a direct, essentially a 1-year stimulus, upfront now, to help get the economy going. In one respect, I think it is because we have some sense of what the economy is going to be like next year. We don't have much of a sense of 2, 3, 4, 5 years down the road. We need to do what we can to stimulate the economy now and take stock a year from now to see where we are. They also said they should not spend too much over the long run. That is part and parcel with the upfront.

We are very nervous in Congress about longer run, about runups in the Federal budget which tend to cause moderate and long-term interest rates to rise. Why? Because bond traders are thinking, gee, if Congress is spending all this money in the longer term, probably there will be competition for capital, and inflation is going to go up a bit, probably, with all that spending, and the price of bonds goes down as long-term rates stay up. They don't come down like we want them to. They will come down if we say we are going to be responsible and we are not going to spend a lot of money in the outyears. That is very important.

The Budget Committee chairmen—all 4—also said we should get the money into the hands of those who will spend it quickly; that is, they are talking more about a consumer-led stimulus. Get people spending money. Then businesses are going to want to invest, start manufacturing products and selling products to the people who are buying. They said—the budgeteers—consumers who will spend money then help stimulate business. They also said we should spend money on businesses who will spend it on capital equipment. That should be stimulative as well.

One more point: In addition to providing an economic stimulus in this legislation, we also have to lend a hand to the Americans who are really suffering. It is one thing to help put money in the economy; it is also as important—if not more important—to help the Americans who are really suffering and living paycheck to paycheck and trying to make ends meet as a consequence of the terrorist attacks, or because of the recession in which the economy is now. At a time like this, I think it is critical that they are all a part of this, and that we Americans work together to find a good solution. That is what we tried to do in this bill. That is what is contained in the bill the Finance Committee is now presenting to the Senate. I think we have done a pretty good job. The bill has six main elements, every one of which is important.

First, we provide a further tax rebate. You will recall that there are about 130 million taxpayers in our country. When the checks went out in the past summer on the tax bill this Senate passed, 79 million Americans got a full rebate. Individuals got either $300, or families got $600, and another 14 million taxpayers got a partial rebate—less than the full $300 or $600. Another 34 million American taxpayers got no rebate whatsoever; 34 million got no rebate in the last go-around, last summer. Why? The rebate then was limited to the amount that people paid in income taxes. You have to remember that a family who paid income taxes of less than $600 did not get a full rebate.

For a family of four, that would be a gross income of about $30,000. If they made less than that, they didn't get a full rebate. In many cases, they didn't get any rebate. So here is what we do in this bill. This bill provides a second round of tax rebates for people who paid payroll taxes but got only a partial rebate, or no rebate, the last time around. As a result, by the time the second round of checks go out, every one of the 130 million people who paid Federal taxes also will receive a full rebate.

To some extent, this is a matter of simple fairness. After all, some got it last time and the rest of the Americans should get it this time. It is also more

than that. The people who didn't get full rebates earlier tend to have relatively low incomes. Those who got it last time have higher incomes. The people who get it now are likely to spend a higher proportion of the new income they get because they are lower income Americans. They have to spend it, frankly, to make ends meet. That would be a direct stimulus to the economy.

Second, we establish a series of temporary tax incentives. Most significantly, we provide special tax depreciation deductions for a limited time to encourage businesses to invest in new plants and equipment. As it now stands, businesses deduct the cost of new plants and equipment over a period of years. There are various rules that apply. We add a temporary depreciation ''bonus'' of 10 percent for investments made before the end of next year.

What does that mean? That basically means, whatever your depreciation schedule is, take 10 percent and do it all the first year, expense it more quickly, move it up, which helps your bottom line. It encourages you to invest. Senator HATCH and others have suggested that we make the percentage higher than 10 percent. I am open to that. I am open to a higher percentage if it fits into the framework of our overall bill.

The accelerated depreciation deduction will have a couple effects. First, it will encourage businesses to invest sooner rather than later. That, in turn, will directly stimulate the economy. Further, to the extent some of the additional investments could be put to use right away, it will increase productivity. That is no small matter.

We also provide an even larger depreciation deduction for small businesses by increasing what is called the ''expensing'' deduction under section 179. This deduction is available only for new investments made in the next 12 months.

Finally, we allow companies a longer period to carry back net operating losses. This change is needed to make the first two investment incentives work efficiently. It also provides a modest break for companies struggling to stay on their feet.

Those are the nationwide investment incentives through tax cuts. It is one way to stimulate the economy through fiscal policy; it is tax cuts. There are lots of ways to do it and that is one way in this bill. That is very important.

The third section of the bill provides tax relief to the area in Lower Manhattan that was devastated by the terrorist attacks of September 11. Yesterday's crash has rekindled our memory of what happened on September 11—the death, the destruction, the horror, and the angst in our national psyche.

The September attacks also had a huge economic effect on New York City. It was amazing to all of us who have been to Ground Zero and have seen it. Fifteen thousand businesses were destroyed or disrupted and 125,000 workers were displaced. That is just the beginning of it. The Senators from New York and New Jersey can go on and on in much greater detail and describe the magnitude and degree of devastation that New York has suffered.

Every American wants to help, from those who live across the river in New Jersey, to those who live across the country in my State of Montana. All Americans want to help. We are all together in this.

Let me explain how we came up with the New York package. After the attacks, Senators SCHUMER and CLINTON and TORRICELLI and CORZINE, along with Governor Pataki, approached me with a series of tax proposals for New York City. We had lots of discussions. They have been wonderful in representing their people and, second, working to do what is right. We rejected several ideas, but we revised others. After a lot of give and take, we were able to agree on a package that is fair, targeted and, I think, practical.

The basic idea is pretty simple. We provide temporary tax incentives to encourage business to either stay in lower Manhattan or to relocate in New York City.

There are three main provisions. First, we expand the work opportunity tax credit which exists under current law to encourage employers to hire certain categories of individuals.

We create a new category for people who find jobs in lower Manhattan or who used to work there and relocate to another part of New York City.

Second, we allow enhanced cost recovery to encourage businesses that lost property in the attacks to relocate to New York City.

Third, we authorize the issuance of $10 billion in tax-exempt private activity bonds to rebuild the area damaged by the attacks.

As a related matter, we include an amendment offered by Senator TORRICELLI based on a bill I wrote with Senator GRASSLEY. It provides tax relief to victims of the terrorist attacks, including both attacks of September 11 and the Oklahoma City bombing a couple of years ago.

Clearly, we will be taking stock at the end of this year as to what more is needed for our country, including New York City. This is basically to stem the hemorrhage, to help people at least tread water and not sink. But we are going to be taking a look at this again, and I welcome working with all the people from New York and other parts of the country as we try to find a national economic plan for next year.

The final provision in this part of the bill allows Indian tribes to issue additional types of tax-exempt bonds to promote economic development. This provision obviously is not related to the September 11 attacks or the recession, but it will help promote economic development in a part of America—Indian country—that has been left behind for far too long.

I will now move on to the fourth section of the bill, unemployment benefits. We all understand the problem. In October, we had the biggest jump in the unemployment rate in 20 years. Work is harder to keep and even harder to find. In response, we have taken an approach that Congress has adopted many times in the past; that is, we extend unemployment benefits by 13 weeks.

We also take a few additional steps. We temporarily increase unemployment benefits by the greater of 15 percent or $25 a week. These people, because of inflation and the difficulty with making ends meet, deserve that. We make modest and temporary improvements in the operation of the unemployment insurance program. Specifically, we update the reporting period and provide better coverage for people seeking part-time work. One does not have to be a full-time worker to qualify. If you are a part-time worker, you should and do qualify.

Others argue that unemployment insurance is a poor economic stimulus. This surprising argument is contrary to the history of the program and to the overwhelming economic evidence.

Alan Krueger of Princeton University put it this way:

> Unemployment insurance is the quintessential economic stimulus: benefits ramp up temporarily in a downturn and reach those most in need.

A similar point was recently made by Joseph Stiglitz, co-winner of the 2001 Nobel Prize for Economics. He said:

> First, we should extend the duration and magnitude of the benefits we provide to our unemployed. . . . This is not only the fairest proposal, but also the most effective.

Senior economist Jane Gravelle of the nonpartisan Congressional Research Service recently said this:

> Extending unemployment compensation is, in fact, likely to be a more successful policy for stimulating aggregate demand than many other tax/transfer changes.

Remember, one of the main reasons we have an unemployment insurance program is to provide economic stimulus during times of economic downturn. That is the whole point of it. Explaining the program in 1934, President Roosevelt said that it will ''act as a stabilizing device in our economic structure and as a method of retarding the rapid downward spiral curve and the onset of severe economic crisis.''

To put it bluntly, people who have lost their jobs and are struggling to get by are likely to spend any additional money they get, providing a direct stimulus to the economy.

The next section of the bill helps people maintain health insurance coverage

for themselves and their families. As unemployment rises, the number of uninsured Americans also rise. People are laid off, and they do not have health insurance.

In the recession of the early 1990s, more than half the workers who became unemployed also became uninsured. That is an important point. More than half the workers who lost their jobs in the early 1990s also lost their health insurance. My proposal responds to this in a couple of ways.

The first way is through the so-called COBRA program. That program was enacted in 1987. It allows people to maintain their employer-provided health insurance coverage for 18 months after they leave a job as long as they pay the full premiums themselves. That is current law.

That is also the problem. Simply put, COBRA premiums—that is, paying full freight for health insurance—is very expensive. On average, the cost for individual coverage is $2,700 a year. As one is layed off, to maintain COBRA health insurance, one has to pay $2,700 for coverage, and for family coverage, turn that 2 and 7 around and it comes out to $7,200 or almost $600 a month. Not many families on unemployment benefits can afford that.

The average unemployment benefit is $231 a week. As a result, only about 18 percent of the workers who qualify to maintain their health insurance coverage under COBRA actually do so. It stands to reason. It is too expensive, so it is only 18 percent.

Here is what we do. First, we provide a 75 percent subsidy for COBRA coverage. In essence, the Federal Government would pay the portion of the premium that previously had been paid by the employer. This is for only 18 months. It is temporary.

Second, we give States funds and flexibility to pay the remaining 25 percent for people with very low incomes.

Third, we give States funds and flexibility to provide Medicaid coverage for workers who are not eligible for the COBRA program.

Fourth, we increase the matching rate for State Medicaid coverage to make it easier for States to maintain coverage at a time when State budgets are being squeezed. We have heard a lot about this. A lot of State budgets are in tough shape. Most have a constitutional requirement to balance the budget, and they are strapped. It is very difficult. I am not going to get into whether they properly cut taxes in the last 2 years when times were good, but nevertheless, we have to take things as they are, and I think the States do need some help.

Forty-nine States face balanced budget requirements and are likely to cause them to increase taxes and cut spending, even though such steps could deepen the recession. The increase in the matching rate provides fiscal relief for States at a time when it is badly needed.

All told, these provisions will maintain health insurance for millions of workers who have lost their jobs or stand to lose them in the difficult months ahead.

Like unemployment insurance, this proposal has been criticized pretty sharply. Some argue that covering health insurance costs will not provide an economic stimulus, apart from these people who are out of work and need a little help.

I grant the case is not as straightforward—strictly on the stimulus point—as it is for unemployment insurance, but still the argument for stimulus is very strong. In any event, this part of the proposal is not just designed to provide economic stimulus, it is designed to help people who have lost their jobs to the recession.

Critics also argue the proposal is an indirect way to establish a new entitlement program. We have heard that, too. Some people do not like new entitlement programs, as a matter of philosophy and ideology, never mind what the practical consequences may or may not be.

This is not a new entitlement program. We are responding to a temporary crisis with a temporary solution. The program ends after 1 year on December 31, 2002: It is over; it is the end of the line; it is done.

Finally, critics argue the program will be slow and cumbersome. Let's be candid. There are several competing proposals to provide temporary health insurance coverage. Each raises the same issues: How efficient and how quickly will the dollars be in the hands of people who need it? Whether we are talking about direct payments, COBRA tax credits—that is another idea—block grants to the States—that is the President's idea—we still have to come up with a system that works quickly and effectively. I am less hung up as to which it is. I want people who need health insurance to get health insurance benefits quickly and efficiently.

If someone can come up with a better approach that accomplishes our goal, I am more than willing to listen.

Let me now turn to a section of the bill that is extremely important: The provisions for agriculture and rural economic development.

To set the stage, let me remind colleagues once again about the state of the agricultural economy. We have had an unprecedented streak of bad weather and bad economic conditions. Farmers in parts of the South and northern-tier States have been particularly hard hit. Although some sectors and some regions have begun to recover, farmers' overall earnings from their farming operations—that is, absent Government payments—are down sharply. The current difficulties could not come at a worse time.

A downturn in farm income does not just impact farmers. It wreaks havoc in the rural communities that depend on them. Farmers in economic distress are not able to make their usual purchases of seed, fertilizer, not to mention food and clothing. This puts the agricultural sector at considerable risk.

To ensure the stimulus plan also provides benefits to agriculture-dependent economies in the South, the Midwest, the northern-tier, the bill extends three programs that have been critical to shoring up farm income in the last 3 years. Not a new program, it just extends the current program.

Some of my colleagues have attacked the agriculture section of the bill. They have poked fun at it, circulating pictures of various fruits and vegetables. The farmers and ranchers across this country may not find this all so amusing. They may wonder why the economic problems of ailing corporations demand immediate action but the economic problems of farmers and ranchers deserve only derision.

They are asking that question, and rightfully so: Why do big corporations get assistance in an economic downturn but not farmers and ranchers? Good question. We know the answer. Farmers and ranchers are part of America, too.

Let me be blunt. My constituents, including farmers and ranchers suffering through another disaster, deserve economic relief every bit as much as Americans from urban areas.

Finally, to complete my summary of the bill, we also extend various tax and trade provisions that are scheduled to expire under current law and make a handful of additional changes to the Tax Code. I believe this bill will help us achieve our objective of providing a fiscal stimulus for the economic recovery of our Nation.

It is temporary. It is carefully targeted. It will increase both business investment and consumer demand, heavier on consumer demand which is needed more in this country. Perhaps more importantly, it will extend a helping hand to the people who have lost their jobs and risk losing their health insurance.

On balance, it is a very solid bill that deserves support in this Chamber. Time is critical. I hope we can complete debate quickly. Every day counts for Americans who need assistance and are looking at us. Is the Congress going to stand up and do what it should do, so we have a chance to wrap up our differences with the House before Thanksgiving? It is important we pass this quickly.

I understand others will disagree with my description of the bill. They will say it falls short. They will argue we need more tax cuts, that we do not need to do so much for the unemployed, that there are better ways to

cover health insurance. They will question whether we should have any agriculture provisions in this bill at all.

I say let us have that debate, and let us try to resolve our differences with due respect to each Senator's point of view. Let us get to the bottom, get the facts out, learn the truth, what works, what does not work, so we can get the job done.

After all, the American people are suffering. They have been hit with shock after shock after shock. They look to us for leadership. It is time to provide it.

As the President said, quoting the heroes who jumped the hijackers over Pennsylvania, let's roll.

The PRESIDING OFFICER (Mr. KENNEDY). The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I welcome the opportunity to be with my friend, Chairman BAUCUS, to discuss an economic stimulative package and to declare that if he and I can work together, we are going to get such an economic stimulative package passed as we did in the case of the tax bill that was passed and signed by the President in June, the largest tax reduction in the last 20 years, a needed tax reduction because the American people are being taxed at the highest level since World War II.

About that tax bill, if we had not passed that tax bill with the rebates that went out during August and September, with the flatness of the economy, we would now be discussing what we are going to do about the flatness of the economy because we did not do something last spring. It was fortuitous we were able to pass such a tax bill, and pass it before there was a demonstrated need for it, to get the taxpayers their rebates, to help consumer demand, and to keep the economy going. We would have been considering a tax bill if we had not passed the earlier tax bill, regardless of what happened on September 11.

Obviously, we are now debating because of the terrorist attacks of September 11 and the dramatic downturn in the economy that has resulted because of that terrorist act.

I suggest as we consider this legislation and what ought to be done for economic stimulus because of the September 11 terrorist attacks and the impact that has made on the economy, that everything be directly related to that incident, and that Members of the Senate not try to get anything on the agenda that would not otherwise be legitimately there because of the September 11 happenings.

So I rise for this debate on an economic stimulative package because of the need for it as a result of what happened on September 11 and for no other reason.

Chairman BAUCUS and I shared a goal at the start of this process. We both wanted a bipartisan economic stimulative package that also addressed the needs of people who were hurt because of September 11 and helped those with unemployment benefits and health care needs for dislocated workers. I still have that as my goal.

My discussions this afternoon I want to divide into three parts: The process for this bill; the substance of the bill, looking primarily at similarities between what Democrats think need to be done and what I as a Republican leader think needs to be done—in other words, these are positions taken by our respective caucuses—and finally, how to resolve these differences and get a bipartisan bill through the Senate because I think we all know right now there are not enough votes to get a partisan package of either caucus through this body.

Chairman BAUCUS rightly insisted that the Finance Committee act on this matter. There was talk by the majority leader of skipping the committee and bringing it directly to the floor. As a ranking member of the Finance Committee, I support the chairman. He can count on my support in respecting the jurisdiction of the committee.

Unfortunately, however, in asserting our jurisdiction, we did not operate in a committee process, in a bipartisan tradition. Despite all the speeches to the contrary, the bill we have now on the Senate floor, put forth last Thursday night by the Senate Finance Committee, was designed to be partisan. Why somebody would make that judgment, I don't have the slightest idea. In all the victories I have had on the floor in this Senate in the 21 years I have been a Member, I don't think any have been a partisan victory. I have been able to work with members of the other party in order to get something done.

There is an old saying: You can get anything done if you don't care who gets credit for it.

In that respect, I think designing a partisan package was a way to bring this bill to a stone wall. My job—and I think Chairman BAUCUS shares this with me—is to break down that stone wall, get beyond that, get our people together, get the opposing sides together, and get something to the President with the idea we are here to help the economy and to not help one political party or the other.

The economic stimulus package passed out of the Senate Finance Committee embodied then the Democratic caucus position on the issues we felt ought to stimulate the economy. The bill was precooked and passed out of committee because Democrats decided to deal only with themselves. As unfortunate as that event was, obviously we are out here on the floor of the Senate. Last Thursday is history. It is all water under the bridge.

Equally unfortunate, however, the partisan acts of the Democrats in the Finance Committee have necessitated a confrontational debate from each side. By choosing a partisan strategy, the Democratic leadership has placed us in a position where, aside from the substantive issues involved, there is necessarily a partisan division. I point this out only because it is a needless barrier to my goal of a bipartisan stimulative package in the tradition of how Senator BAUCUS and I got the tax bill of last spring to the President for signature on June 7.

On the Senate floor, the majority leader does not have an unfettered right to push this bill through on a partisan basis. He has a right to try but he cannot succeed because this bill violates the restrictions of the budget resolution. It is subject to a 60-vote point of order under the rules of the Senate. So, too, if Republicans wanted to push ours, we could not get it passed. It would be subject to a 60-vote point of order. We are in a position where neither side can win.

I am frustrated and disappointed right now because there is so much common ground between us and where the Democrat bill is. I am frustrated because, regardless of this common ground, there is little will on the part of the Democratic caucus to meet our side halfway or even part of the way. That unwillingness doesn't make a lot of sense in a Senate that is divided: 50 Democrats, 49 Republicans, and one Independent.

Where is the common ground? Starting with the economic stimulus itself, basically the President of the United States and Chairman Greenspan gave us a green light to the stimulus exercise. Chairman Greenspan requested we take a hard look at proposals that were temporary, immediate, and efficient. Since his meetings with the President and with us on the Senate Finance Committee, there has also been indication that what he has done on interest rates, although he can still do more and will probably do more, is reaching the end of the road of what can be done through monetary policy, and that there needs to be a stimulative package that parallels, through Congress, what Chairman Greenspan is trying to do through the Federal Reserve System.

We have been working with Chairman Greenspan because we want these programs to complement each other. We also think Chairman Greenspan has a pretty good feel for what it takes to turn this economy around. We sought his advice in a bipartisan way. The President sought his advice. Chairman Greenspan said we needed to pay particular attention to the decline in manufacturing investment.

I have a chart that demonstrates the relationship of consumption expenditures and manufacturing expenditures. As the red line shows, we have had a steady growth in personal consumption

expenditures. We have had more ups and downs with domestic investment, mostly manufacturing investment. In the last three quarters, we have seen a very dramatic turndown in manufacturing investment. It reached a high and dropped. I am glad to hear the chairman of the committee say in his opening remarks that the 10-percent accelerated depreciation they allow in their legislation is negotiable. We think, and Chairman Greenspan thinks, about 30 percent is what it will take to stimulate the economy.

The other side speaks about consumer demand and doing something about consumer demand. The chart shows there has not been an erosion of personal consumption expenditures as there has been a dramatic erosion of manufacturing investment.

Of course, why manufacturing investment and encouragement of that? It is time tested from both Republican and Democrat Presidents, changing tax law from time to time in the last 50 years to stimulate the economy because it enhances productivity; but more importantly, the equipment bought by major corporations is made at another manufacturing place that creates jobs. It is a good way to help the economy in two ways: It creates jobs where the enhanced machinery is manufactured, and it also makes each person working where this is installed more productive, as well.

We need a balance between demand and manufacturing. If we trust Chairman Greenspan, and a lot of people in the United States have confidence in him according to the polls, we need to pay particular attention to the downturn in manufacturing investment and follow Chairman Greenspan's advice.

Now, Democrats and Republicans have agreed to pursue accelerated depreciation as a stimulus. Both caucus plans have this proposal included, but there is an ineffective 10-percent accelerated appreciation in the Democrat plan, compared to the positive 30 percent in the Republican plan. Both caucuses pursued proposals that, while not as stimulative as accelerated depreciation, would still provide much needed relief to struggling businesses.

It is another area of common ground that Democrats propose liberalizing the net operating loss carryback rules, but Republicans propose repealing the corporate alternative minimum tax. Here again, there is room for negotiation and compromise that will lead to a bipartisan agreement.

Republicans put on the table an acceleration of the income tax rate cuts put in place by the bipartisan tax relief bill I spoke of twice this afternoon that was signed by the President on June 7. That included the tax rebates, as well. The Democratic leadership objects strenuously to the proposal because, although this proposal is stimulative—I have not heard otherwise—it reopened a statute that a majority of the Democrats did not support last spring.

I recognize acceleration is not viewed as common ground, but I think it begs a question, if we are going to be intellectually honest with each other. How could the Democrats reopen the statute that the President signed June 7 by putting rebates for payroll and nontaxpayers on the table. It appears a bit inconsistent. In one place you can open the bill, but in another place you cannot open that tax bill of last spring.

To those of us on this side, then, it appears the Democratic leadership has taken the positive gesture by the President on rebates because President Bush wants to get money to lower income people to stimulate the economy. So they have taken a positive gesture by the President but have not been flexible in return.

Needless to say, by default, both sides have common ground on the next round of rebate checks. This proposal stimulates consumer demand. Former Secretary Rubin was very keen on some modest level of consumer demand stimulus. So on the investment side and the consumers demand side, both Republicans and Democrats have proposals with similar features, with the Republicans placing more emphasis on investment. But the Democratic leadership has made marginal rate cut acceleration some sort of a deal breaker.

We Republicans want to provide dislocated workers with assistance for coverage for health insurance. First off, I want to clear up some misstatements. Some have incorrectly said that Republican proposals do nothing to help cover the cost of health insurance for dislocated workers. This is baloney.

The President supported health care assistance by proposing funding for health care benefits to laid-off workers. Both the House bill and the Senate Republican caucus position embrace this idea. In negotiations, in particular, I want to say to the Presiding Officer, I was willing to go beyond the President's proposal. I offered to more than triple the amount of money. I also proposed expanding coverage of health benefits to dislocated workers who do not qualify for COBRA, such as small business workers. I then offered Democrats complete flexibility to write the criteria under which the money would be granted so they could be confident in the program doing what they want it to do. So how much more flexible can you be? But the Democratic leadership said no and rejected the offer.

So we do have a common ground on the goal of helping dislocated workers with health care benefits. Are there any differences in how we want to provide this assistance? The answer is yes. The whole point of this bill, though, is to get people health care benefits right now, not down the road. Yet the Democratic leadership proposes to create a new bureaucracy that will take many months to get up and running. The Democrats' proposal would not be able to get benefits to workers until it is too late. This is a stimulative package to help us out of the recession, not to give people help way beyond the turnaround in the economy.

The reason the Democrats' proposal would do this is because Federal law requires that when a new Federal program is established, regulations must be promulgated and the public be given notice and opportunity to comment. Clearly, these laws affecting new programs are in place for a good reason.

We can avoid this hurdle by using existing programs, especially ones that are tailor made for national emergencies. That is why the President took the approach he did through National Emergency Grant Programs. If there is not enough money there to satisfy people on the other side of the aisle, we can take care of that. But we ought to take care of it in a manner that gets the money to the people in a month, not in a year. Our goal was to use the existing National Emergency Grant Program, one that the Federal Government and States have used for years and have experience with, to ensure benefits can get to dislocated workers in the fastest way possible. No new infrastructure would be required by the Federal Government and States could quickly access much needed funds.

The bottom line is hard-working Americans who have lost their jobs as a result of the September 11 tragedy cannot wait 6, 9, or 12 months for health care insurance. They need help and need it right now. We propose to do just that. But, again, the Democrat leadership was not interested in bipartisan compromises, even when they represented common sense.

I have another problem, though, with the Democratic health package; that is, it places undue burdens on States which are already struggling to respond to adverse impacts of September 11. Requiring a new Federal infrastructure and corresponding new State infrastructures in order to access emergency funds seems to be downright unreasonable.

We should be working our hardest to get money to States immediately for them to get it to their workers who do not have health insurance. We should not penalize them by demanding that they, too, establish extensive new bureaucracies to get money to people in need.

For example, the Democrats' proposal would require many States to enact legislation in order to set up and fund new State infrastructures to certify and deliver COBRA benefits. This is obviously a nonfunded mandate. But in addition, the Democrats' proposal requires States to use their own money. This means only those States

which happen to have extra money in their Medicaid budget could help workers who are not COBRA eligible. I am not aware any State is claiming to have extra Medicaid money burning a hole in its pockets for those people. I think this is just plain wrong.

I propose to provide 100 percent Federal funding through National Emergency Grant Programs to allow States, then, to cover non-COBRA eligibles.

Once again, I asked the Democrat leadership: Why are you insisting on doing this the hard way, especially when there are much more efficient alternatives?

Now I have a few points about extended unemployment benefits to dislocated workers. We want to do more than just provide unemployment checks. First of all, let me make it very clear. Why do you have a stimulus package? It is not to give unemployment checks, even though that is what we are doing. But the idea of stimulating the economy is getting people a job. People want a job; they don't want unemployment checks. We want incentives to get workers back their paychecks.

But both sides agree that providing 13 weeks of additional benefit to workers in need is reasonable. We have done that five times in the last 30 years, I believe.

The Democratic leadership, however, wants to take finite resources and spread them thinly across every State so the needy will not get enough help. I offered to provide unemployment benefits in two ways—kind of take your choice. The first was to allow 13 weeks of benefits to be extended to those States which experienced a significant increase in unemployment. So what is a significant increase in unemployment? In that regard, I was completely flexible.

In fact, I was more than willing to bring the threshold well below what the President proposed.

In addition, I believe that extended unemployment benefits should be made available to particular industries or communities adversely impacted by September 11. This should be the case even if a State as a whole doesn't experience a major increase in unemployment.

So I hope I have made it apparent that on our side we care about dislocated workers and getting them unemployment and health benefits. The differences are grounded in how to do it, and not whether to do it. I still believe that we are not that far apart and our differences can be bridged. If we are willing to take the partisan blinders off and focus on getting help to workers immediately instead of winning ideological points, we can come to agreement on a proposal.

I have been so flexible that I know how Gumby feels.

So, here we are, and I am left asking why we are stuck in this partisan ditch. We have common ground on the investment side, consumer spending side, unemployment benefits, and health coverage for dislocated workers. Why couldn't we work out an agreement? It seems that there are three reasons.

The first reason is that the Democratic leadership doesn't want two negotiations with Republicans. They don't want to negotiate with Senate Republicans first and then have to negotiate with the White House and House Republicans later in conference. I have to chuckle when I hear this type of objection coming from the Senate Democratic leadership. When I was negotiating the bipartisan tax cut in the Finance Committee, I ran into the same objection from many in the Senate Republican caucus. You know who would bring this up. They said, GRASSLEY, don't negotiate with BAUCUS. If you do, you will have to negotiate further to the left on the Senate floor. One negotiation is better than two.

If I had followed that ''one negotiation'' directive, we would have had chaos on the Senate floor last spring.

As it turned out—and for reference for people who are fearful that maybe the bipartisan Senate Finance Committee agreement couldn't hold in conference right now—the track record of last spring is that the bipartisan Finance Committee agreement held on the Senate floor and largely stayed intact in conference. But if the House and Senate parties agree to a so-called preconference strategy, which has been talked about within just the last 4 or 5 hours due to our constrained time now that we are getting up against adjournment this fall, I will certainly support that effort and hope it happens.

So you can't proceed because you don't want to negotiate twice. I hope I have proved that is not a problem here in the Senate, if you do it right.

There is a second reason given for not negotiating.

It seems that many in the Senate Democratic caucus want some kind of ''payback'' against the bipartisan tax relief legislation. In their view, the bipartisan deal was wrong, and with their caucus now running the Senate, they do not want to see it repeated in any way. In their view, a bipartisan Finance Committee deal would have been a bad deal unless it contained all four corners of the Senate Democratic caucus position. As I said, I showed movement on several issues but could not get movement from the other side. Everyone knows that unless both sides move, you can't get a deal.

So here we are with basically the Senate Democratic caucus position as the Finance Committee bill. The bill before us is a partisan product. There is no gesture to the Republican side. The Finance Committee bill says, ''Our way or the highway.'' I only ask, is this what the American people want? I didn't think so at the time of the tax cut last spring, and I don't think so now.

There is a third reason we can't get a deal. Senate Democrats say the House Republican partisan process necessitate a partisan response. We are kind of engaged in a game of legislative ping pong. That frustration, while understandable, doesn't justify shutting out Senate Republicans. Senate Republicans are not irrelevant. The House passed a partisan tax bill in the Spring, but that did not stop the Senate from passing a bipartisan package which the President signed on June 7. The Senate should not be rendered irrelevant because of partisan politics in the House.

The American people expect us to work together. That is what I have been trying to do over the past few months. Senate Republicans are flexible and willing to move toward Senate Democrats, but it is a two-way street and Democrats must also show movement.

To sum up, we want to get a bipartisan stimulus package. Bipartisanship does not mean adopting the Senate Democratic caucus position.

At this time, we are struck with this partisan, special interest Democratic bill that came out of committee on an 11-to-10 vote. We see that, even the media, like the Washington Post, call this bill a poor excuse for economic stimulus. They blame lobbyists for shaping a stimulus bill. ''Special Interests Scramble for Tax Break's, Other Windfalls''. The headline of one Post article reads ''Lobbyists Shaping Economic Stimulus bill.'' And it goes on to talk about companies getting tax credits for millionaires and payments going to billionaire bison ranchers.

Let me note, however, that extensions of provisions that expire under current law are matters we should address.

In the Finance Committee, the Democratic leadership lined the votes up, and we on this side were left out. That was an unfortunate outcome for the Finance Committee, which has a great bipartisan tradition.

With some optimism, I noted at the Finance Committee markup that the centrists, a group of some Republicans and some Democrats who consider themselves right in the center of the political spectrum, indicated that things on the Senate floor would be different. I am hopeful of this sentiment expressed by the centrist group and that, combined, we can get enough votes to put together a bill that will get 60 votes to get a bipartisan bill through. I hope this will cause the Democratic leadership then to engage in a bipartisan debate. It is about time the process on this bill changes and reasonable heads prevail.

Mr. President, I suggest the absence of a quorum.

I ask unanimous consent that the Senator from Massachusetts be recognized after the quorum call.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. KERRY). Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, today brave young Americans are on the front lines of the fight for freedom from terrorism, and here at home we must work together to defeat the terrorists who would poison our people, panic our society, and paralyze our democracy. An essential point of protecting our homefront is protecting our economy because the state of our Union cannot be strong if the state of our economy is weak.

Even before September 11, the Nation's economy was already weakening. The unemployment rate had been climbing for months. Relatively few new jobs were being created. Companies were announcing a successive round of layoffs. Business investment was being drastically reduced. Profits were rapidly falling.

Last week, consumer confidence dropped to its lowest level in 7 years. And 2 weeks ago, the unemployment rate took the largest jump in 21 years. Nearly 8 million people are now out of work through no fault of their own, left with no pay and no golden parachute. For them and their families, life is a nightmare of missing paychecks, unpaid bills, lost health insurance, and no job on the horizon.

Surely, it is these Americans who deserve our highest priority in Congress. Helping these workers is the quickest way to stimulate our economy. But if we act in the wrong way, a stimulus package could actually harm the economy.

The Republicans would rely almost exclusively on permanent tax cuts that would do little or nothing to promote growth when we need it most, which is right now. Their proposals are neither fair nor will they work. They do not measure up to the high standard required of us. A true stimulus package cannot be a disguise for special interests, nor can it run the risk of imposing large, new, long-term deficits on the Federal budget.

Permanent, new tax cuts, on top of the now nearly $2 trillion in tax cuts enacted earlier this year, would actually hurt the economy by increasing the cost of long-term borrowing. Such cuts would discourage the kind of business investments we need to encourage.

A true economic stimulus program must meet three criteria:

First, it must have an immediate impact on the economy. The dollars in the stimulus package must be spent in the economy as soon as possible. The best way to accomplish this goal is to target the funds to the low- and moderate-income families who are the most certain to spend it rather than to save it.

Second, the tax cuts and spending provisions in the plan must be temporary. They must focus on the immediate need to generate economic activity. And they must not impose substantial new long-term costs on the Federal budget.

And third, the package must be fair. It must focus on those who need and deserve the help, who are suffering the most in these difficult days. It must reflect the renewed national spirit of taking care of each other.

The bill reported out of the Finance Committee—and I commend Senator BAUCUS for this, as well as Senator BYRD for the homeland security provisions which are part of the package—rightly gives first priority to the millions of Americans who have lost their jobs in the current seriously sagging economy. It puts money directly in the hands of those who will spend it immediately and will help laid off workers provide health insurance for their families.

Let's look at the proposal of the Finance Committee, which represents the best judgment of the Democrats on this measure. Let's look at the heart and the soul of this particular program.

All we have to do is look at the reports over this past weekend by the Nobel laureate in economics, Joseph Stiglitz:

> The United States is in the midst of a recession that may well turn out to be the worst in 20 years, and the Republican-backed stimulus package will do little to improve the economy—indeed, it may make matters worse.

We may be in the midst of the worst recession of the last 20 years, ''and the Republican-backed stimulus package will do little to improve the economy—indeed, it may make matters worse.'' That is not a Democratic statement or comment, and it is repeated by economists across the country.

What have been the proposals? The principal proposals of the Democratic effort have, first of all, included unemployment compensation in order to get resources out to those who are unemployed.

We can ask ourselves, what has been the record of the Senate over the period of recent years? My friend and colleague from Iowa talked about how, in recent years, Republicans had supported unemployment compensation. That is true.

The unemployment insurance benefits were extended four times during the recession in the early 1990s. At its peak, an additional 33 weeks of benefits were provided. On November 15, 1991, the Senate passed an unemployment compensation bill to add an additional 20 weeks of unemployment benefits for States with high unemployment rates and 13 additional weeks for other States. That vote was 91 to 2. The Republican Senators voting for the extension included Senators BURNS, COCHRAN, CRAIG, DOMENICI, GRAMM, GRASSLEY, JEFFORDS, MCCAIN, MCCONNELL, MURKOWSKI, NICKLES, SMITH, SPECTER, STEVENS, and WARNER, and then-Democratic Senator SHELBY also voted in favor of the extension. The vote was 91 to 2. It represented a bipartisan effort. This is virtually identical to what was considered back at that particular time in 1991.

Then, in 1992, we were still facing the challenges of significant unemployment, and we passed 94 to 2 to supplement the regular benefits. The bill raised the maximum additional weeks to 33 weeks of benefits for States with high unemployment, and 26 weeks for all other States. It was a much more dramatic bill. This bill is much more modest. That vote was 94 to 2. And that included the Republican leader, Senator LOTT, as well as Senator GRASSLEY, and other Republicans.

Then in June of 1992, by a voice vote—and it passed—we had an increase in the unemployment compensation. Then the conference came back, and the vote was 93 to 3. That was in 1992.

Then in 1993, the vote was 79 to 20.

What is it about the Republican leadership that they are opposed to this program now? That is what these workers are asking. Not only the hundreds of thousands of workers who lost their jobs prior to September 11, but all those who have lost their jobs since that time, they say: You have done it before for workers. You have done it when we have needed it. Why aren't you willing to do it now? That is part of the challenge of the Democratic leadership to our Republican friends.

We have listened to the ranking minority member of the Finance Committee who says: Well, we have supported it in the past. We will try to work something out.

You can work it out right now by supporting this very modest proposal. And it is fairly easy to understand why this has been an important provision, why this is a responsible provision. The cost of this proposal: $14 billion. That is the unemployment proposal. At the present time, we have $38 billion in Federal unemployment insurance trust funds that have been paid on behalf of the employees. We are talking about taking $14 billion out of there. We have done it in the past.

What is their resistance? What is their reluctance? Why aren't they willing to look after what is most important in a recession—the real people who are suffering, the workers who are suffering, men and women who want to go to work today and can't go to work

because their jobs have been lost to them? Real people, real families. Those are the people we are caring about. The funds are sufficient, obviously, to take care of that. We have more than enough funds.

Why is this important? As we have seen before, unemployment insurance is an ideal stimulus. It delivers the stimulus where and when it is needed. It provides $2.15 of positive impact to the GDP for every $1 that is spent. That has been the history of it, according to the Department of Labor. And it has been relied on by the Congress, and the Senate, going back for a long period of time.

Let's look at what is happening out there in the real world in terms of the levels of newly unemployed not seen since 1992. This chart I have in the Chamber, going from 250,000 to 550,000, shows what is happening in 2001. It shows the greatest increase, as I mentioned, of the number of unemployed workers going right up through the roof. It is virtually the highest we have seen in over 10 years. It is a real problem. The statistics show it. The families show it. We have the resources to be able to afford it. We have enacted that at other times in our history, and done it in a bipartisan way.

Now look at the percentage of unemployed workers receiving unemployment benefits which has declined over the last 25 years.

In 1975, 75 percent of those who were unemployed received unemployment insurance. And then, during the 1980s, the States squeezed back eligibility for workers who were unemployed. We have seen, as a result of that, that we are down now, with figures getting further and further from what they were in 1975. We are finding out that only 38 percent of those workers are receiving the benefits now. We not only have to do something in order to extend unemployment compensation, but we also have to do something about the eligibility and who will be eligible for that program. The Democratic program does just that. It is one of the key important features.

(Mr. TORRICELLI assumed the chair.)

Mr. KENNEDY. This is what is happening out there. Low-wage workers are half as likely to receive unemployment benefits as other unemployed workers, even though low-wage workers are twice as likely to be unemployed. That is because of the change of the rules and regulations in the States. Nationwide, they are twice as likely to be unemployed and they have half as much chance of getting any kind of coverage. In all but 13 States, unemployed workers seeking part-time work are not eligible for unemployment benefits. In all but 12 States, most unemployed low-wage workers are not eligible for unemployment benefits.

The Democratic plan ensures that more than 600,000 low-wage and part-time workers will receive the benefits. These are men and women whose employers are paying into the fund now on their behalf. That is the extraordinary thing. These workers are being paid for in the fund at the present time, but they are not eligible because they have been effectively written out with the redrafting and changes of the unemployment laws in their respective States. There are only 13 States that even provide unemployment help and assistance for part-time workers—those workers who work 30 hours a week or less.

What we have seen in the workforce is that there has been a very important transition to increasing what they call the temps, the part-time workers. Seventy percent of those are women, because they want to go into the workforce, and sometimes to expand their families and then go back into the workforce. They may want to work a certain number of hours, and even though they are paying in under the unemployment compensation, they are being left out; but not under the Democratic program. That is very important.

This chart shows that there are only 13 States that provide unemployment insurance for the part-time workers. This chart shows that only 12 States provide unemployment insurance for the low-wage workers. That is a dramatic difference from other times of recession we have seen.

So this proposal—one very important aspect of it, the unemployment insurance—has been accepted by Republicans historically. The reason they have accepted it is that, as other distinguished economists and the CRS have pointed out, this program is truly a stimulus in terms of the economy. It is fair, temporary, and it works. It provides very important assistance to needy families.

I want to take a minute—and I see others on the floor who wish to speak—on another major part of our program—that is with regard to health insurance, which is important. Many colleagues remember the debate we had on the Patients' Bill of Rights not long ago and what many of our colleagues on the other side of the aisle said:

If we want to look at what the real problem is in America, it is the 44 million people who do not have any health insurance.

That was Senator SANTORUM on June 20.

If you have no insurance, the likelihood of getting good health care in the United States is much less.

That was Senator FRIST.

We will be using the health care coverage for seniors who are taking arthritis medicines, men and women who are being treated with chemotherapy or kidney dialysis, and families waiting for loved ones to have bypass surgery. These are the lives that will be disrupted, even devastated, as a direct result of this bill. They are talking about the Patients' Bill of Rights.

Then Senator HUTCHISON said:

The Kennedy-McCain bill ignores what I believe is the most important patient protection, and that is affordable health insurance.

Well, Mr. Republican, your problems are solved because under the Democratic program we provide an effective extension of health insurance for those who had it in their previous employment and lost it, and for those who didn't have it but need it in terms of this recession. We have a lot of statements and comments about the importance of extending this. And, we are doing the job.

Let me just review a couple of facts. The typical unemployment benefit is $925 per month. The health insurance costs are about $588 per month, which is 63 percent of the unemployment benefit. Only 18 percent of workers today, if they qualify for COBRA, are able to take advantage of it. It doesn't do very much for them. The Senate Democratic plan provides 75-percent premium assistance. CBO estimates this would cover 7.2 million workers.

We listened to my friend from Iowa talk about what the Republicans were doing. Senate Republicans have an inadequate plan that at least would provide a family with 2 weeks of COBRA. Theirs is the $3 billion, which they say can be used for unemployment compensation, health insurance, and other kinds of activities in the States, leaving it up to the States. We heard that outlined, but the numbers weren't described. If they use it all for health to offset premiums, it will last for 2 weeks for COBRA. So when we recognize the difference, it is very real.

The next chart demonstrates $925 a month as the average unemployment. In order to recover your COBRA, it is 65 percent of that. As a result, very few are able to do it. If we have the Democratic program, the amount that will be required will only be 16 percent. That will result in about 80 percent of all of those being covered.

This chart shows who recovered. Nearly half of all workers are not eligible for COBRA, including workers in small businesses of fewer than 20, workers in businesses that go out of business, individuals who buy individual coverage, those whose employers do not offer health insurance or cannot afford to take it up. They are excluded. What do we do? They need an affordable health option.

We Democrats are proposing a new Medicaid State option to cover these workers. CBO has estimated that 2½ million workers will benefit from our plan. The Republican plan has no relief for these workers; zero will be included. The administration proposes to take funds from the CHIP program for these workers, to cover the workers they would like to cover, which is basically taking money that is guaranteed

to the States, on which the States rely to provide coverage for uncovered children. It is effectively robbing Peter to pay Paul.

On this chart, if you look at the categories on the Democratic and Republican packages:

Guarantees workers help paying COBRA, who will have COBRA but find difficulty in affording it.

We would help the 7.2 million unemployed Americans. The Republican bill has no guarantee.

Providing help for displaced workers.

We provide 2½ million Americans with coverage. There is no such coverage under the Republicans.

Provide the State fiscal relief by improving Federal Medicaid payments.

That is what they call an ''enhanced match,'' which has been so successful to get children. We provide that, and the best estimate at CBO is that 4 million will be covered.

If one is concerned about health care, this is how it gets done. It is not just what we are saying; it is what the CRS and the CBO says. This is an effective program to deal with the health aspects of this proposal.

If we are talking about something that is going to be temporary, if we are talking about something that is going to be stimulative, if we are talking about something that is fair, these aspects of the Finance Committee proposal meet all of those criteria. It will assist those who are impacted—working families. It will give them some lift. We have done that in a bipartisan way historically.

We ask the question: Where are our Republican friends? Why are they not joining us as they did at other times? If you understand the importance of health care, this is the best way to do it. If they have a better way of doing it, I am sure our leadership and the Finance Committee will welcome that opportunity. This will ensure that workers who need health care for their families are going to be able to maintain their coverage, and the health industry, which is so important to our country, is going to prosper. This is limited to 1 year. It is a 1-year stimulus program.

The democratic plan helps ensure that States do not have to make budget cuts that would undermine any Federal stimulus. States have yearly balanced budget requirements and many are already looking at major budget cuts to meet those requirements. To help keep State economies strong, our plan freezes planned Federal Medicaid cuts and enhances the Medicaid matching rate by up to 3 percent for States that agree not to cut back on their coverage. This plan will provide immediate assistance to States and help assure they do not have to make budget cuts that put us deeper in recession.

The Democratic plan is also a fair balance between tax incentives and spending incentives for the economy. The tax incentives in the plan meet the three essential criteria for a stimulus—they will put money into the economy now, they do not impose substantial new long-term costs on the federal budget, and they treat fairly those who are most in need.

Seventy percent of Americans today pay more in payroll taxes than in income taxes. Yet many of them received no tax rebate earlier this year. The rebate unfairly ignored these low- and moderate-income families. A one-time rebate of payroll taxes to them now will immediately inject $15 billion into the economy, placing the dollars in the hands of people who are likely to spend them immediately. Economists tell us that families with modest incomes are likely to spend the extra money they receive right away on needed consumer goods. Those with higher incomes are more likely to save it.

The Democratic bill also includes temporary, targeted tax cuts to stimulate immediate business activity. These changes provide more favorable treatment for new investments now, and they deserve to be supported.

Because the tax cuts in the Democratic plan are truly designed to be an immediate economic stimulus, they do not incur any substantial cost beyond 2003. This point is vital to our economic recovery. Enacting new permanent tax cuts which can trigger large long-term Federal deficits would be counterproductive. Permanent new tax cuts—on top of the nearly $2 trillion in tax cuts enacted earlier this year—would actually hurt the economy now, by raising the cost of long-term borrowing and discouraging the kinds of investment we need most today.

The House of Representatives passed, by the narrowest of margins, a so-called stimulus package that will not stimulate economic growth in the short term, and will not be affordable in the long term. It merely repackages old, unfair, permanent tax breaks which were rejected by Congress last spring under the new label of ''economic stimulus.'' The American people deserve better.

The long-term cost of the House plan is too high, and less than half of the dollars would reach the economy next year. The House plan offers $46 billion in tax breaks to big businesses by permanently repealing the corporate alternative minimum tax and by giving permanent new tax cuts for multinational corporations. These provisions are an unacceptable giveaway of public resources.

The alternative suggested by our Republican colleagues in the Senate is also flawed. Their proposal to accelerate the reduction of upper income tax rates would cost $120 billion over the next decade. Only a small percentage of these dollars—less than one dollar in four—would go into the economy in 2002. And these dollars would go to those least likely to spend them. The result would be little immediate stimulus, large long-term costs, and a grossly unfair distribution to the wealthiest individuals in our society.

In fact, the House Republican proposal gives $115 billion in permanent new tax breaks to wealthy individuals and corporations, while the Senate plan would give them $142 billion in new tax breaks. Yet each of the Republican tax plans provide only $14 billion for low- and moderate-income families. Under the GOP plan, the tax cuts for corporations and wealthy individuals are permanent, while the cuts for working families are limited to just 1 year. The result is unfair, and it will not provide the economic stimulus that the Nation urgently needs now.

Our Democratic alternative also includes key steps to make our country stronger and safer. It includes needed resources to fight bioterrorism and improve our ability to respond to an attack. It will help detect an attack by strengthening our public health system. It will help treat the victims of an attack by making sure that our hospitals and other health facilities are better prepared. It will expand pharmaceutical stockpiles and develop new treatments. We owe it to the American people to take these steps now, and we need this legislation to do that.

Perhaps never before in history has our Nation faced such grave challenges. The tragedy of September 11 has touched us all. Together, we witnessed a horror we could not have imagined and bravery which inspires us all. The tragedy may have shaken our basic assumptions about the world in which we live, but Americans have not retreated in fear. Instead, they have risen to meet these new challenges. The spirit of September 11 has compelled vast numbers of our fellow citizens to ask what they can do for their communities and our country.

It is time for Congress to do its part. We must respond to the economic crisis the Nation faces. As we do so, we must show our dedication to America's best ideals. As we fight for a safer society, we can also create a more just society at the same time. September 11 has taught all Americans that we need to help each other as never before.

We will not ignore the plight of millions of Americans hurt by this tragedy and by economic forces beyond their control. As we work together to get our economy moving again, we can also work together to see that none are left behind. We have a unique opportunity to give help and hope to every American as we enact a stimulus plan that puts America back to work.

The American people are meeting this challenge, and we must demonstrate to them that Congress is capable of meeting it, too. The test we face now is to pass a stimulus package that

truly lifts the economy, and lifts it fairly and responsibly. The American people are watching this debate closely, and they are waiting for our answer.

I hope Americans who are paying attention to this debate understand the dramatic contrast between what has been suggested by our Republican friends and the proposal that has been advanced by our Finance Committee. Hopefully, we will gain their support.

The PRESIDING OFFICER (Mr. SCHUMER). Who yields time?

Mr. BAUCUS. Mr. President, I yield 15 minutes to the Senator from New Jersey.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. TORRICELLI. Mr. President, I thank the distinguished chairman of the Finance Committee for yielding the time, and I compliment him on his extraordinary leadership in bringing the Senate to this moment.

It may well be that this Nation was headed towards an economic downturn before September 11. We may debate that fact, but there is no mistaking that every State in the Nation is now facing a dramatic change in economic circumstances.

In October, the unemployment rate rose one-half point, to 5.4 percent of working Americans; 400,000 people lost their jobs, including 8,000 in my State of New Jersey alone.

As this has affected our families individually, the economic change has affected our States collectively. Thirty States are now clearly in a position of economic recession.

The Senate is faced with two very different philosophies in dealing with this change of economic circumstances. The Senate Finance Committee, under Chairman BAUCUS leadership, has sought to address both the causes of the downturn and those most dramatically affected by the economic downturn.

The bill, as Senator KENNEDY has illustrated, provides 13 weeks of extended unemployment benefits. It makes many part-time workers eligible. These are the people on the front line of our economic difficulties, and rightfully and exclusively, this bill, among the alternatives before us, provides the most help to families who, through no fault of their own, now find themselves wanting for rent payments, mortgage payments, or tuitions, and only have the bridge of unemployment benefits to get them through the crisis.

In New Jersey, this means 50,000 people will be able to continue their unemployment benefits or face the prospect of no help at all; 11,000 part-time workers in New Jersey, the most vulnerable of the vulnerable, will be able to continue their benefits.

The bill also addresses the reality that as people lose their jobs, their problems are compounded by the emergency situation of also losing health benefits. The legislation provides a 75-percent subsidy for laid-off workers to purchase COBRA insurance.

As families are vulnerable, so are the States. The National Governors' Association projects State revenues to be $30 billion less than previously forecast. As we all know, as the States start to reduce their budgets to deal with the budgetary emergencies, the first to suffer will be education and health care.

Twenty-nine States already face $600 million of projected reductions in what they will be able to provide in health care. The Baucus bill provides $5 billion directly to States through an increase in Medicaid matching funds.

These provisions are all national in scope. They help every State in the Nation deal with this economic emergency, but, in fact, as acute as the situation is nationally, regionally it is the most severe. While all the Nation is in pain, it is most severe in those areas directly impacted by the terrorist attacks on September 11.

It would be no surprise to anyone in the Senate to know the economic downturn is affecting the New York-New Jersey-Connecticut areas most directly. The attacks not only killed thousands of people, but for those left behind, those whom they loved and their neighbors, the economic impact is particularly acute. Prior to September 11, 300,000 people worked in Lower Manhattan in the impact area. Since the attacks, 125,000 people have been displaced; 19,000 have already left the city; 35 million square feet of office space is currently unavailable.

Indeed, in Battery Park City, home to thousands of New Yorkers in Lower Manhattan, only 30 percent of the tens of thousands of residents have returned to their homes.

The simple truth is, as a matter of employment and residency, Lower Manhattan will never be the same without Federal assistance. This legislation dealing with the economic emergency in the Nation, as it deals with national unemployment, the national health care situation, the national need for stimulus, focuses in particular on the fact there is an acute economic emergency in Manhattan.

The legislation that I offered with Senator SCHUMER and Senator CLINTON contains $5 billion in economic assistance to New York. I make no apologies for offering this legislation. Almost unbelievably, I have read in the national media that somehow this constitutes some form of special interest legislation.

The terrorists may have attacked buildings that were in New York, but this was an assault on America, on every American, and it tests our concept of national union whether when an individual city, State, or group of people are attacked, whether we respond as a city or State or we respond as a country.

I may live in New Jersey, but on September 11 my country was attacked, and we should all respond as Americans.

If there is a special interest contained in this legislation to deal with residency and employment, the economic stability and the reconstruction of New York, let us identify that special interest.

The interest is, we are all Americans, we are all in this together, and we will respond together. That is the interest being tested.

Now, indeed, the pain may be particular to New York, but it is shared with their neighbors whom I represent in the State of New Jersey. Two hundred thousand New Jersey residents are employed in Lower Manhattan, or they were employed, because 40 percent of the people who worked in the World Trade Center lived with their families in New Jersey. Fifteen thousand people lost their place of employment if they did not also lose their lives. Sixty-six thousand people from New Jersey commuted every day to Lower Manhattan on the PATH railroad system, all of which to Lower Manhattan is now in shambles.

The $5 billion in tax incentives will apply to the 1.6-square-mile recovery zone around the World Trade Center. That is where people I represent worked every day. They lost their offices. Many lost their companies. Most lost their means of employment with which to feed their families and raise their children.

Special interests? Very special. Keeping these people employed, their families alive and prosperous, that is our special interest.

This $5 billion in tax incentives includes a $4,800 employee wage tax credit for existing and new hirers to try to keep employment stability in Lower Manhattan so a bad situation does not get worse; second, $10 billion in private activity bonding authority to rebuild the real estate in the impacted zone; third, to encourage businesses to stay and reinvest in Lower Manhattan. The bill will allow the cost of replacement property to be deducted as a loss.

There is no better symbol to the world of American resolve, our determination to survive, than to rebuild in this economic zone and to provide stability for employment in the impacted area. That is exactly what we intend to do.

Then there is the question of the Nation's infrastructure. We are not responding properly to the recession, this economic emergency, if we provide for unemployment benefits, provide for health insurance, provide for the areas most acutely impacted, if we do not also do something about the national infrastructure.

I yield to Senator BAUCUS.

Mr. BAUCUS. I thank the Senator. Mr. President, I ask unanimous consent that the Senator from California

be allowed to speak for 5 minutes at the conclusion of the remarks of the Senator from New Jersey.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TORRICELLI. This package is not complete if we deal with unemployment and health benefits and the impacted area of New York, but we do not also do something about the national infrastructure.

The truth is this Nation had a severe infrastructure problem long before there was a recession. Thirty-three percent of the Nation's half million bridges are structurally deficient. Fourteen million children attend schools that are a decade or two beyond the needs of basic repairs. The time to do that work is when we have workers to do it.

In 6 months or a year, as commercial construction activity in the Nation slows and people employed in the building trades add to the ranks of the unemployed, the one means of keeping them working is to do the work for the Nation that already needs to be done. Yet our Republican friends and even some in the media call this a special interest—pork.

Can building a school for a child in a deficient structure ever be a needless expenditure? It may be safe for someone in some media outlet or someone who feels good about their own child to call building a school pork. To me, it is meeting a basic obligation.

I have placed in this bill, and I make no apologies for it, a major national investment in national infrastructure to build high-speed rail lines. It is right and it is proper. As was demonstrated on September 11, this Nation's transportation infrastructure is fragile. When it is interrupted, business stops, employment declines, and the Nation's economy suffers. This economic downturn is an opportunity, once again, to increase employment by modernizing our infrastructure, as we have done in almost every recession in the last 50 years.

As the chart to my left illustrates, as we try now to provide duality in our national transportation infrastructure so the Nation is not entirely dependent on an aircraft system, this chart demonstrates how much each of these Federal Governments contributes to the construction of rail systems.

In Germany, the government provides 21 percent; France, 20 percent; the United Kingdom, almost 18 percent; and the United States of America, .04 percent of our rail system is provided by the Federal Government. It is therefore no wonder the Nation is largely without a modern high-speed rail system outside of the Northeast corridor.

The amendment I provide in this economic stimulus package provides $9 billion in bonding authority which will be repaid by Amtrak. The Federal Government only pays the interest on these bonds. It would cost $4 billion to provide modern systems throughout the country, in the Southeast from Washington to Jacksonville, including Virginia, North and South Carolina and Georgia; a modern high-speed rail system from Orlando-Miami-Tampa; on the gulf coast, from Houston and New Orleans, eventually to Atlanta; and a Midwestern Express covering nine States.

This is the moment. We need to employ people. Ridership is soaring. The demand is clear.

The PRESIDING OFFICER. The Senator has consumed 15 minutes.

Mr. TORRICELLI. I ask unanimous consent for an additional 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TORRICELLI. This is the moment to build this high-speed rail system. It is in this legislation. It is identical to the legislation cosponsored by 56 Senators, including Senator LOTT and Senator DASCHLE. Use this moment to build this system.

The legislation also includes $2 billion toward the engineering and construction of a new Trans-Hudson tunnel between New York and New Jersey. This is vital. There has not been a rail tunnel built between New York, connecting it with the rest of the Nation, since 1920.

The existing tunnels do not have escape mechanisms. They do not have adequate fire protection. They are old and they are slow. This legislation will immediately begin the engineering and then the funding of a new rail tunnel. So if in any future emergency or terrorist attack we lose the existing tunnels, there will be one safe, modern, fast tunnel to connect New York with the remainder of the Nation and allow in New Jersey an Amtrak for the rest of the country to expand the rail commuter network, which is now at capacity, to get more people out of their automobiles and onto trains, throughout suburban New Jersey, into Manhattan.

Nothing would convince employers to remain in Manhattan longer and invest better than the knowledge there will be a rail network to get employees there in the decades ahead. Our constituents are giving us exactly that message. Ridership is up 45 percent from New Jersey to New York City since September 11. Amtrak now runs 21 trains per hour through the existing tunnel capacity. They need to get that rate to 45. This new tunnel can add 20 trains an hour. We can get people out of their cars. We can get them into safe trains. This legislation contains exactly that capacity.

This is simply a good economic stimulus package. It is good in what it does to the unemployed. It is good in what it does for vulnerable families. It provides the proper public works to get people employed and keep them employed and make the national investments we need for the coming decades.

I am proud of it. It is the right thing. It is good legislation. I thank Senator BAUCUS. I thank my colleagues for being responsive to New York, New Jersey, and the Connecticut region during this time of crisis. I urge my colleagues to support this legislation and to do so with pride.

I yield the floor.

The PRESIDING OFFICER. The Senator from California is recognized for 5 minutes.

Mrs. BOXER. Seeing no one else on the floor, I ask unanimous consent for an additional 5 minutes for a total of 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. BOXER. Mr. President, I have not spoken on the floor of the Senate in a long time. The issues have been coming fast and furiously toward us. Today I will discuss with my colleagues in the Senate the very important economic stimulus bill. Beyond that, before I turn to that bill, I will discuss what I consider to be the three most pressing matters to deal with, in addition to our normal appropriations work.

One of those is certainly this economic stimulus package. The last economic data we had showed the greatest loss of jobs in 1 month for 21 years. It has been 21 years since we have lost so many jobs in 1 month. We must take up this economic stimulus bill. We have been hit hard by the terrorists, and before that we were beginning to see a slowdown in our economy. The combination of the two is simply not acceptable.

Another pressing need is aviation security. I say in no uncertain terms I cannot say what the President says to the American people: Get in those planes and fly. I want to say those words, and I will say those words when we have passed the laws we need to pass to make flying as safe as possible.

We do not now screen and check all the bags that are in the underbelly of the planes. We don't check and screen the cargo for bombs. No, we do not. We do not have screeners who are a well-trained security force. We do not have air marshals on every flight. We do not have yet a secure cockpit always locked and not open during the flight.

These are four basic measures we have learned are the key to aviation security. El Al, that runs the Israeli airline, has told us very clearly: There are no secrets; these are the things we have to do. When we do those things, I will look in the eyes of your constituent and mine, and I will say not what I am saying today, which is, yes, it is safer than it was on September 11; but I can look at them and say the skies are as safe as we can make them.

To be a Pollyanna, to stand up and say, come fly with me—as the Frank

Sinatra song goes—I cannot do it. I fly a lot. I am in the air a lot to do my work. As I said, I know we are safer than we were before September 11, but we are nowhere near where we should be. I call on the conferees to get moving. I call on the House Republican leaders to get off their ideological problems and understand the same old way of doing business with private security handling the bags is a failure.

That is something we must do right away. We also need a package for homeland defense or homeland security. Senator BYRD has a wonderful, well-thought-out package which will become, I hope, part of the economic stimulus at a later time. It is modest in its approach but will allow us to vaccinate every man, woman, and child against smallpox and, God forbid if we have to, against anthrax, and develop the kind of work we need to prevent bioterrorism, protect our nuclear powerplants. Again, airport security, chemical plants, and we will give special grants to law enforcement, local and State, and rebuild our public health system so when we have a problem the local people, the first responders, will have the wherewithall to do what it takes.

I am very happy that Senator BYRD will be doing this. It ought to become part of the stimulus package because not only do we need it for the defense of our country, but we also know those dollars will be spent and every one of those dollars will help provide jobs.

That gets me to where we are right now, this economic stimulus package dealing with tax cuts. If you want to see the difference between Republicans and Democrats, if you are sitting at home and scratching your head and saying, aren't these guys and gals all alike, I say take a look at this package. What do the Republicans do, to the tune of more than $20 billion over 10 years? They give big dollars to those who have them—surprise. They give $1.4 billion to IBM. The last I checked, they earned $5.7 billion in the year 2000. The last I checked they were laying off people, not hiring people. Is that what we want to do, reward them for that?

Ford Motor, a $1 billion refund check; their corporate profits were $9.4 billion. General Motors, $833 million? Their corporate profits in 2000 were $2.9 billion. And, GE, a $671 million refund check. Their corporate profits were $9.3 billion.

I do not know how to say this in a way that doesn't sound harsh, but in the nicest way I can say it, it is this. I believe you have said it in your way as well, Mr. President.

For people to use the 9–11 tragedy, which you felt in your State—in your heart, with perhaps a few of you in this body more than any of us—to use 9–11 as an excuse to do something that these Republicans have wanted to do since the minute they took over control of the Congress, which is to reward their biggest contributors, is nothing less than unpatriotic. It is my feeling. It is how I feel. It is my opinion. It is not a fact. It is my opinion.

Let my say it again. To use 9–11 as an excuse to pay back your biggest contributors—who are laying off people, by the way, and who are doing just fine, thank you very much—is a disgrace.

If you want to see the difference in the parties, look at our tax cuts. They deal with ways to stimulate investment by businesses by giving a bonus depreciation to encourage investments in capital equipment, additional depreciation for small business, net operating loss carrybacks that will help companies that have done well in the last few years but not as well recently to get an immediate tax refund, and we propose giving tax rebates to those who were left out earlier this year.

I know Republicans have that provision as well. But the lion's share of what they do is this—and how about this—escalate the tax breaks so the wealthiest people among us get back $16,000 a year.

That is not $16,000 over 10 years. That is $16,000 in a year. Those are the people earning over $1 million a year. Thank you—they are doing fine, and they are not going to spend the money.

We had an interesting meeting with the former Treasury Secretary who presided over the greatest economic recovery our country has ever seen, Robert Rubin. He told us that those in that top bracket are not going to spend that money. They are spending everything they can spend.

These corporations are not going to put anybody to work when they get their refund checks. These are the people who are slimming down, who are cutting back. So what kind of economic stimulus is the Republican plan? It is a giveaway to the wealthiest people at the expense of everybody else.

And, might I add, it is a budget buster. It is a budget buster. When you look at the costs of the Grassley plan and the House plan, what are we looking at over the period? We are looking at about $170 billion over the period. When we look at our plan, even if you add on the homeland security, you are looking at about $60 billion over the 10-year period.

So they are bringing us right back into the deficit hole where they took us in the first place and it took a Democratic administration to get us out of that mess. Now they are putting us right back in the mess, deficits as far as the eye can see. To do what? Help the richest people in the country, the richest corporations.

I remember the days when there wasn't an alternative minimum tax because I was over on the House side when we decided it was outrageous that the biggest corporations in the country were paying zero taxes. I remember that.

The PRESIDING OFFICER. The time of the Senator has expired.

Mrs. BOXER. I ask for 5 additional minutes.

The PRESIDING OFFICER. There are 4 minutes remaining before the debate on the nomination.

Mrs. BOXER. I ask for 4 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. BOXER. Mr. President, I think you were in the House at that time as well, when we closed that terrible loophole and we made sure these companies, these companies that were popping champagne corks on tax day because they paid nothing in the defense of their country, paid nothing to educate one child, they paid nothing to give health care to one child, and we said that was wrong and we walked down the path and we put in a fair alternative minimum tax.

Here they are, boys; they are back. They are back and they are trying to go back to those days when the largest corporations in America paid zero.

Again, to use the 9–11 tragedy as an excuse to do this is beyond my ability to express. I usually don't have too much trouble, but this is horrific.

Let's not go back to those days in the 1980s. I will give an example. Senator ROBERT BYRD told a story about a woman in Milwaukee, the mother of three children, who in 1983 earned $12,000. On that income, she paid more taxes than Boeing, GE, DuPont, and Texaco put together. Welcome back to those days, if you go with that House plan.

Senator GRASSLEY just does away with this prospectively. The House gives them a rebate for the past. He doesn't do that, but he does away with it for the future. So I will be able to stand up here, if he prevails, and say the same thing next year: A woman earning $12,000 paid more in taxes than all these corporations together. I do not want to go there.

Here is the bottom line. We have the best economist in the world telling us the House plan and the Senate Republican bill will make things worse. That is Joseph Stiglitz, awarded the Nobel Prize in economics last month. He says the family earning $50,000 would get zero, but the Republican plan would give $50,000 over 4 years to families making $4 million a year.

What are we doing? This is a time we need to get money into this economy. We need to jump-start this economy. It started to go down when President Bush came in. With 9–11, it has gone straight this way. We better do something that gets it going.

So we have a lot of work to do. I can only hope the American people will weigh in, in this debate, and understand the average American with the

Republican plan gets nothing, gets big deficits again that will fall on their children, and the big corporations and the most wealthy among us will be ready to pop their champagne corks.

That is not fair. It is not just. It is not what 9–11 was all about. I hope we can stop it, come together, and have a fair plan for all Americans.

I yield the floor.

The PRESIDING OFFICER. The Chair thanks the Senator from California.

EXECUTIVE SESSION

NOMINATION OF EDITH BROWN CLEMENT, OF LOUISIANA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE FIFTH CIRCUIT

The PRESIDING OFFICER. Under the previous order, the hour of 4:45 having arrived, the Senate will now go into executive session and proceed to the consideration of Executive Calendar No. 511, which the clerk will report.

The assistant legislative clerk read the nomination of Edith Brown Clement, of Louisiana, to be United States Circuit Judge for the Fifth Circuit.

The PRESIDING OFFICER. Under the previous order there will be 15 minutes for debate, time to be equally divided by the chairman and ranking member of the Judiciary Committee. At 5 o'clock, a vote will follow on that nomination. Who yields time?

The Senator from Montana.

Mr. BAUCUS. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent the time be equally charged against both sides.

The PRESIDING OFFICER. Without objection, the clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I congratulate the nominee and her family on her nomination, confirmation and what is soon to be her appointment to the United States Court of Appeals for the Fifth Circuit. I also commend the Senators from Louisiana for working with the committee and the majority leader and working with the President to bring this nomination forward and to have the Senate act to confirm Judge Clement.

I take special pride in this confirmation because we are finally bringing some help to the Fifth Circuit. Since 1999, Chief Judge King of the 5th Circuit has declared a state of emergency in the Circuit such that the hearing and determination of cases and controversies could be conducted by panels of three judges selected without regard to the qualification in 28 U.S.C. section 46(b) that a majority of each panel be composed of judges of the 5th Circuit.

I well recall when delays in the confirmation process over the last several years threw the 2nd Circuit into a similar emergency in March 1998, and how hard I worked to get those five vacancies filled to end that emergency in my Circuit. I am glad that we are proceeding with Judge Clement today in order to try to help the 5th Circuit.

Judge Edith Brown Clement from Louisiana was among the first nominees sent to this committee by the President. Unfortunately, in the wake of the Republican leader's objection to keeping that nomination and many others pending over the August recess, Senate rules required that her nomination be returned to the President without action as the Senate began its August recess. She was nominated again in September to serve on the U.S. Court of Appeals for the Fifth Circuit, which encompasses the States of Texas, Louisiana, and Mississippi.

This is one of the many Circuits that were left with multiple vacancies at the end of the Clinton administration. Since January 23, 1997, Judge Garwood's seat on the 5th Circuit has been vacant. Despite the fact that former President Clinton nominated Jorge Rangel to fill this vacancy in July of 1997, Mr. Rangel never received a hearing and his nomination was returned on October 21, 1998. On September 16, 1999, former President Clinton nominated Enrique Moreno to fill the same vacancy. Once again, the nominee did not receive a hearing.

Since April 7, 1999, the seat previously occupied by Judge Duhe of the 5th Circuit has been vacant. Although former President Clinton nominated Alston Johnson to fill that vacancy only 15 days later, on April 22, 1999, Mr. Johnson was never granted a hearing by the Judiciary Committee in 1999, during all of 2000, or during the first months of this year while his nomination was still pending.

Over the last several years I have commented on those vacancies as I urged action on the nominations of Jorge Rangel, Enrique Moreno, and Alston Johnson to fill those vacancies on the 5th Circuit. None of those nominees were ever provided a hearing or acted upon by the Senate. After 15 months without action, Mr. Rangel asked not to be re-nominated. After 15 months and two nominations, Enrique Moreno's nomination was returned to the President without action. After nearly 23 months and two nominations without action, Mr. Johnson's nomination was withdrawn by President Bush in March of 2001.

The nominations hearing for Judge Clement was the first hearing for a nominee to the 5th Circuit in 7 years—since September 14, 1994. She will likewise be the first judge confirmed to the 5th Circuit in 7 years.

Since July 2001, when the Senate was allowed to reorganize and the committee membership was set, we have maintained a strong effort to consider judicial and executive nominees. With the confirmation of Judge Clement, we reach yet additional milestone. Judge Clement is the fifth nominee to the Courts of Appeals confirmed by the Senate since July 20 this year. We have now confirmed as many Court of Appeals nominees as were confirmed during the first year of the first Bush administration and two more than were confirmed during the first year of the Clinton administration. I thank the Majority Leader, the Judiciary Committee and all Senators for their cooperation in reaching this important goal.

In addition, I note that by confirming our 18th judicial nominee, we have now confirmed more total judges this year than were confirmed in 1989, the first year of the first Bush administration. With the confirmations of Judges Armijo, Bowdre, Friot, and Wooten last week, the Senate confirmed its 10th, 11th, 12th and 13th District Court judges for the year and matched and then exceeded the number of District Court judges confirmed in 1989, which was 10.

With the confirmation of Judge Wooten last week, the Senate confirmed its 17th judge over all and matched the number of judges confirmed in all of the 1996 session. With the confirmation of Judge Clement to the U.S. Court of Appeals for the Fifth Circuit we have exceeded that total for the 1996 session. Of course, in 1996, the Senate majority at that time did not proceed on a single nominee to a Court of Appeals and limited itself to confirming only 17 judges to the District Courts.

Thus, despite all the upheavals we have experienced this year with the shifts in chairmanship and, more importantly, the need to focus our attention on responsible action in the fight against international terrorism, we have matched or beaten the number of confirmations of judges during the first year of first Bush administration and the last year of the first Clinton term.

As a judge on the Court of Appeals, Judge Clement will have a vital role to play in protecting and preserving our civil liberties in the days ahead. Our system of checks and balances requires that the judicial branch review the acts of the political branches. I trust that Judge Clement will take this responsibility seriously and will rely on our rich history of judicial precedent to make wise decisions in the challenging times ahead.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. LEAHY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?